



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

An Act to make provision with respect to the members, officers and other staff and the procedure of local authorities; to amend Part III of the Local Government Act 1974 and Part II of the Local Government (Scotland) Act 1975 and to provide for a national code of local government conduct; to make further provision about the finances and expenditure of local authorities (including provision with respect to housing subsidies) and about companies in which local authorities have interests; to make provision for and in connection with renewal areas, grants towards the cost of improvement and repair of housing accommodation and the carrying out of works of maintenance, repair and improvement; to amend the Housing Act 1985 and Part III of the Local Government Finance Act 1982; to make amendments of and consequential upon Parts I, II and IV of the Housing Act 1988; to amend the Local Government Finance Act 1988 and the Abolition of Domestic Rates Etc. (Scotland) Act 1987 and certain enactments relating, as respects Scotland, to rating and valuation, and to provide for the making of grants; to make provision with respect to the imposition of charges by local authorities; to make further provision about certain existing grants and about financial assistance to and planning by local authorities in respect of emergencies; to amend sections 102 and 211 of the Local Government (Scotland) Act 1973; to amend the Local Land Charges Act 1975; to enable local authorities in Wales to be known solely by Welsh language names; to provide for the transfer of new town housing stock; to amend certain of the provisions of the Housing (Scotland) Act 1987 relating to a secure tenant's right to purchase his house; to amend section 47 of the Race Relations Act 1976; to confer certain powers on the Housing Corporation, Housing for Wales and Scottish Homes; to make provision about security of tenure for certain tenants under long tenancies; to provide for the making of grants and giving of guarantees in respect of certain activities carried on in relation to the construction industry; to provide for the repeal of certain enactments relating to improvement notices, town development and education support grants; to make, as respects Scotland, further provision in relation to the phasing of progression to registered rent for houses let by housing associations or Scottish Homes and in relation to the circumstances in which rent increases under assured tenancies may be secured; and for connected purposes.

[16th November 1989]

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

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<sup>X1</sup>Be it enacted by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### **Editorial Information**

**X1** The text of ss. 74–138, 157, 161–183, 190–193, 194(1), 195, Schs. 4, 9, Sch. 11 paras. 31, 32, 42, 58, 62–88, 93–95, 99, 100, 107, 110–112 was taken from S.I.F. Group 61 (Housing), ss. 187, 193, 195 from S.I.F. Group 64 (Industrial Development), ss. 149(6), 186, 190–193, 194(1), 195, Schs. 7, 10, Sch. 11 paras. 8–13, 49–54, 60, 61, 89–91, 101–106, 108, 109, 112 from S.I.F. Group 75:1 (Landlord and Tenant: General, E.&W.), ss. 1(1)–(3)(5)–(8), 2–13, 15–22, 23(1), 24–26, 28, 30(2), 31, 32(1), 33–35, 36(1)–(8), 37–73, 139, 146–158, 160, 184, 188–195, Schs. 1–3, 5, 8, Sch. 11 paras. 1–7, 14, 16–30, 37–41, 47, 48, 56, 57, 59, 92, 96–98, 113, Sch. 11 paras. 1–7, 14, 16–30, 37–41, 47, 48, 56, 57, 59, 92, 96–98, 113, Sch. 12 from S.I.F. Group 81:1 (Local Government: General, E.&W.), and ss. 1(1)(2)(4)–(8), 2–12, 14–21, 23(2), 27, 29, 30(1), 31, 32(2), 36(9), 140–145, 150–153, 155, 157, 159, 185, 190, 192, 194(1), 195, Schs. 1, 6, Sch. 11 paras. 15, 33–36, 43–46, 55, 96, 97 from S.I.F. Group 81:2 (Local Government: General, S.).

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

- C1** Act: (except ss. 43(2), 53(1) and 54(1) so far as they relate to a fire authority or police authority, and except s. 43(3)) transfer of functions (W.) (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)
- C2** Act modified (1.12.2008) by [The Housing and Regeneration Act 2008 \(Consequential Provisions\) Order 2008 \(S.I. 2008/3002\)](#), [art. 7](#) (with [Sch. 2](#)) (see S.I. 2008/3068, art. 2(1)(b))

## **PART I**

### LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

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

- C3** Pt. 1 (ss. 1–21) applied (temp. from 4.5.1995 to 31.3.1996) by [S.I. 1995/1042](#), [art. 4\(1\)](#)  
 Pt. 1 (ss. 1–21): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by [1997 c. 50](#), [s. 44\(1\)](#), [Sch. 4](#) para. (j)(i); [S.I. 1997/1930](#), [art. 2\(1\)\(2\)\(m\)](#) (subject to [art. 2\(3\)](#))  
 Pt. 1 (ss. 1–21): extended (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by [2000 c. 22](#), [ss. 23](#), [108\(4\)](#), [Sch. 1 para. 3\(13\)](#); [S.I. 2000/2849](#), [art. 2\(c\)](#)
- C4** Pt. 1 (ss. 1–21): extended (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), [regs. 1\(2\)](#), [3\(6\)](#)
- C5** Pt. 1 functions made exercisable by joint standards committees (E.) (15.6.2009) by [The Standards Committee \(Further Provisions\) \(England\) Regulations 2009 \(S.I. 2009/1255\)](#), [regs. 1\(1\)](#), [14](#)

### *Political restriction of officers and staff*

#### **1 Disqualification and political restriction of certain officers and staff.**

- (1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.

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- (2) In the <sup>M1</sup>House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—
- “Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.”
- (3) In section 80 of the <sup>M2</sup>Local Government Act 1972 (disqualification for election and holding office as member of local authority)—
- (a) in subsection (1)(a) (paid office holders and employees), the words “joint board, joint authority or” shall be omitted; and
- (b) in subsection (6) (extension of meaning of “local authority”), after the word “includes” there shall be inserted “ a joint board and ”.
- (4) In section 31 of the <sup>M3</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—
- (a) in subsection (1)(a)(ii), the words “or joint board” shall be omitted; and
- (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board.”
- (5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.
- (6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.
- (7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.
- (8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.

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

- C6 S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11  
S. 1 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 7(4) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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	S. 1 extended (8.5.2000) by 1999 c. 29, ss. 68, 70 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), <b>Sch. Pt. 2</b>
<b>C7</b>	Ss. 1-3 modified (E.) (22.7.2004) by <b>The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778)</b> , arts. 1, <b>12(4)</b>
<b>C8</b>	Ss. 1-3 modified (E.) (22.7.2004) by <b>The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777)</b> , arts. 1, <b>12(4)</b>
<b>Marginal Citations</b>	
<b>M1</b>	1975 c. 24.
<b>M2</b>	1972 c. 70.
<b>M3</b>	1973 c. 65.

**2 Politically restricted posts.**

- (1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—
  - (a) the person designated under section 4 below as the head of the authority’s paid service;
  - (b) the statutory chief officers;
  - (c) a non-statutory chief officer;
  - (d) a deputy chief officer;
  - (e) the monitoring officer designated under section 5 below;
  - (f) any person holding a post to which he was appointed in pursuance of section 9 below; and
  - (g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 [<sup>F1</sup>or 3A] below or with section 100G(2) of the <sup>M4</sup>Local Government Act 1972 or section 50G(2) of the <sup>M5</sup>Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated).
  
- (2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—
  - <sup>F2</sup>(a) .....
  - <sup>F2</sup>(b) .....
  - (c) posts <sup>F3</sup>[<sup>F4</sup>... the] duties of which appear to the authority to fall within subsection (3) below,

as are not posts for the time being exempted under section 3 [<sup>F5</sup>or 3A] below, posts for the time being listed under section 100G(2) of the <sup>M6</sup>Local Government Act 1972 or section 50G(2) of the <sup>M7</sup>Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.
  
- (3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—
  - (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented [<sup>F6</sup> or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority];



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- (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- (4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.
- (5) It shall be the duty of every local authority [<sup>F7</sup> in Scotland and Wales ] in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.
- [<sup>F8</sup>(5A) It shall be the duty of every local authority in England in performing their duties under this section to have regard to such general advice as may be given by virtue of section 3B below by the Secretary of State.]
- (6) In this section “the statutory chief officers” means—
  - [<sup>F9</sup>(za) the director of children’s services appointed under section 18 of the Children Act 2004 and the director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970 (in the case of a local authority in England);]
  - (a) the chief education officer [<sup>F10</sup>or director of education] appointed under [<sup>F11</sup>section 532 of the Education Act 1996][<sup>F10</sup>or section 78 of the <sup>M8</sup>Education (Scotland) Act 1980][<sup>F12</sup>(in the case of a local authority in Wales) ] ;
  - (b) [<sup>F13</sup>the chief officer of a fire brigade maintained under the <sup>M9</sup>Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;]
  - (c) the director of social services [<sup>F14</sup>(in the case of a local authority in Wales)] or [<sup>F15</sup>chief social work officer] appointed under section 6 of the <sup>M10</sup>Local Authority Social Services Act 1970 or section 3 of the <sup>M11</sup>Social Work (Scotland) Act 1968; and
  - (d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M12</sup>Local Government Act 1985, section 112 of the <sup>M13</sup>Local Government Finance Act 1988 [<sup>F16</sup>, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the <sup>M14</sup>Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs.
- (7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—
  - (a) a person for whom the head of the authority’s paid service is directly responsible;
  - (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and
  - (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (8) In this section “deputy chief officer” means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required

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to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

- (9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.
- (10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—
- (a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a <sup>F17</sup>local authority] or, in Scotland, is under the management of or is assisted by an education authority; or
  - (b) any other post as a teacher or lecturer in any such school, college, institution or establishment,
- or of requiring any such post to be included in any list prepared and maintained under this section.
- (11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

#### Textual Amendments

- F1** Words in s. 2(1)(g) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 203(1)(a)**, 245(5); S.I. 2008/172, art. 4(m)
- F2** S. 2(2)(a)(b) and word repealed (S.) (28.2.2007) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), ss. 9(a), 17(2); S.S.I. 2007/25, art. 2(1); s. 2(2)(a)(b) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(2)(a), 148(1)(d), **Sch. 7 Pt. 1**
- F3** Words in s. 2(2)(c) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(2)(b), 148(1)(d), **Sch. 7 Pt. 1**
- F4** Words in s. 2(2)(c) repealed (S.) (28.2.2007) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), **ss. 9(b)**, 17(2); S.S.I. 2007/25, art. 2(1)
- F5** Words in s. 2(2) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 203(1)(a)**, 245(5); S.I. 2008/172, art. 4(m)
- F6** Words in s. 2(3)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 22; S.I. 2002/808, arts. 1(2), **21**
- F7** Words in s. 2(5) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 203(1)(b)**, 245(5); S.I. 2008/172, art. 4(m)
- F8** S. 2(5A) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 203(1)(c)**, 245(5); S.I. 2008/172, art. 4(m)
- F9** S. 2(6)(za) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by [Children Act 2004 \(c. 31\)](#), s. 67(2), **Sch. 2 para. 3(a)**; S.I. 2007/1792, art. 2
- F10** Words in s. 2(6)(a) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(2)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F11** Words in s. 2(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 95** (with s. 1(4), Sch. 39 paras. 30, 39)
- F12** Words in s. 2(6)(a) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by [Children Act 2004 \(c. 31\)](#), s. 67(2), **Sch. 2 para. 3(b)**; S.I. 2007/1792, art. 2
- F13** S. 2(6)(b) repealed (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, **Sch. 2**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F14** Words in s. 2(6)(c) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by [Children Act 2004 \(c. 31\)](#), s. 67(2), **Sch. 2 para. 3(c)**; S.I. 2007/1792, art. 2

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- F15** Words in s. 2(6)(c) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(2)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F16** Words in s. 2(6)(d) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, s. **127(8)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F17** Words in s. 2(10)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(2)**

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

- C7** Ss. 1-3 modified (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **12(4)**
- C8** Ss. 1-3 modified (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **12(4)**
- C9** S. 2 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

- M4** 1972 c. 70.  
**M5** 1973 c. 65.  
**M6** 1972 c. 70.  
**M7** 1973 c. 65.  
**M8** 1980 c. 44.  
**M9** 1947 c. 41.  
**M10** 1970 c. 42.  
**M11** 1968 c. 49.  
**M12** 1985 c. 51.  
**M13** 1988 c. 41.  
**M14** 1973 c. 65.

### 3 Grant and supervision of exemptions from political restriction<sup>[F18]</sup>: Scotland and Wales ].

- (1) <sup>[F19]</sup>It shall be the duty of the Scottish Ministers to appoint in relation to Scotland, and the duty of the Welsh Ministers to appoint in relation to Wales, a person—
- (a) to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and
  - (b) to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.
- (2) A person appointed under subsection (1) above—
- (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and
  - (b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.
- (3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—

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- (a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; <sup>F20</sup>...
- <sup>F21</sup>[<sup>F22</sup>(b) .....  
<sup>F23</sup>...]
- (4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3)above, that person shall direct—
  - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.
- (5) A person appointed under subsection (1) above shall not give a direction under subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—
  - (a) is a post the duties of which fall within section 2(3) above; and
  - (b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the <sup>M15</sup>Local Government Act 1972 or section 50G(2) of the <sup>M16</sup>Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.
- (6) It shall be the duty of a local authority—
  - (a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;
  - (b) to comply with any direction under this section with respect to the list maintained by the authority; and
  - (c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.
- (7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.
- (8) The Secretary of State may—
  - <sup>F24</sup>(a) .....
  - (b) provide for the appointment of such numbers of staff to assist any person appointed under [<sup>F25</sup>subsection (1)], and to act on that person’s behalf, as the Secretary of State may with the consent of the Treasury determine;
  - (c) pay to or in respect of a person appointed under that subsection and members of such a person’s staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and
  - (d) provide for a person appointed under that subsection and such a person’s staff to hold office on such other terms as the Secretary of State may so determine.

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### Textual Amendments

- F18** Words in s. 3 heading inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 202\(1\)\(a\)](#), 245(5); S.I. 2008/172, art. 9(1)
- F19** Words in s. 3(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 202\(1\)\(b\)](#), 245(5); S.I. 2008/172, art. 9(1)
- F20** Word in s. 3(3)(a) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 30\(3\)\(a\)](#), 148(1)(d), [Sch. 7 Pt. 1](#)
- F21** [S. 3\(3\)\(b\)](#) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 30\(3\)\(b\)](#), 148(1)(d), [Sch. 7 Pt. 1](#)
- F22** Words in s. 3(3) omitted (S.) (29.5.2009) by virtue of [The Local Government and Housing Act 1989 Amendment \(Scotland\) Order 2009 \(S.S.I. 2009/205\)](#), arts. 1, [2\(2\)](#)
- F23** Words in s. 3(3) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 30\(3\)\(c\)](#), 148(1)(d), [Sch. 7 Pt. 1](#)
- F24** [S. 3\(8\)\(a\)](#) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 202\(1\)\(c\)](#), 245(5), [Sch. 18 Pt. 15](#); S.I. 2008/172, arts. 4(n)(ii), 9(1)
- F25** Words in s. 3(8)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 202\(1\)\(d\)](#), 245(5); S.I. 2008/172, art. 9(1)

### Modifications etc. (not altering text)

- C7** [Ss. 1-3](#) modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, [12\(4\)](#)
- C8** [Ss. 1-3](#) modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [12\(4\)](#)
- C10** [S. 3](#) applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by S.I. 1995/789, art. 2, [Sch. entry 11](#)  
[S. 3](#) extended (E.W.) (19.9.1995) by [1995 c. 25](#), [ss. 63\(5\)](#), 125(2), [Sch. 7 para. 7\(4\)](#) (with [ss. 7\(6\)](#), 115, 117, [Sch. 8 para. 7](#))  
[S. 3](#) extended (8.5.2000) by [1999 c. 29](#), [ss. 68](#), 70 (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/801, art. 2(2)(b), [Sch. Pt. 2](#)

### Marginal Citations

- M15** [1972 c. 70](#).  
**M16** [1973 c. 65](#).

## [<sup>F26</sup>3A Grant and supervision of exemptions from political restriction: England

- (1) The standards committee of a local authority in England which is a relevant authority—
- must consider any application for exemption from political restriction which is made to the committee, in respect of any post under the relevant authority, by the holder for the time being of that post; and
  - may, on the application of any person or otherwise, give directions to the relevant authority requiring it to include a post in the list maintained by the authority under section 2(2).
- (2) An application may not be made under subsection (1)(a) unless—
- the relevant authority have specified or are proposing to specify the post in the list maintained by them under section 2(2);<sup>F27</sup> ...
  - <sup>F28</sup>(b) .....
- <sup>F29</sup> ...

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- (3) If, on an application under subsection (1)(a) in respect of any post, the standards committee is satisfied that the duties of the post do not fall within section 2(3), the committee must direct—
- (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that accordingly the post is not to be specified in the list maintained by the relevant authority under section 2(2) or (as the case may be) is to be removed from that list.
- (4) A standards committee may not give a direction under subsection (1)(b) in respect of any post unless the committee is satisfied that—
- (a) the duties of the post fall within section 2(3); and
  - (b) the post is neither—
    - (i) in any list maintained by the relevant authority in accordance with section 2(2) above or section 100G(2) of the Local Government Act 1972; nor
    - (ii) of a description specified in any regulations under section 2(2) above.
- (5) A standards committee must when determining for the purposes of subsection (3) or (4) whether or not the duties of a post fall within section 2(3) have regard to any general advice given by the Secretary of State under section 3B.
- (6) Every local authority in England which is a relevant authority must—
- (a) give its standards committee all such information as the committee may reasonably require for the purpose of carrying out its functions under this section;
  - (b) comply with any direction under this section with respect to the list maintained by the authority; and
  - (c) on being given a direction under subsection (1)(b), notify the terms of the direction to the person who holds the post to which the direction relates.
- (7) In carrying out its functions under this section a standards committee must give priority, according to the time available before the election, to any application under subsection (1)(a) from a person who certifies that the application is made for the purpose of enabling him to be a candidate in a forthcoming election.
- (8) The Secretary of State may make regulations requiring a local authority in England which is not a relevant authority to establish a committee to exercise the functions conferred by this section on the standards committee of a local authority in England which is a relevant authority.
- (9) Regulations under subsection (8) may include provision—
- (a) applying any provisions of this section (with or without modification) where a committee has been established under the regulations;
  - (b) applying (with or without modification) any provision of section 53 of the Local Government Act 2000 or regulations made under subsection (6) of that section.
- (10) In this section—
- “standards committee” means a committee established under section 53(1) of the Local Government Act 2000;
- “relevant authority” has the meaning given by section 49(6) of that Act.]

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#### Textual Amendments

- F26** Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(2)**, 245(5); S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)
- F27** Word in s. 3A(2)(a) repealed (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(4)(a), 148(1)(d), **Sch. 7 Pt. 1**
- F28** S. 3A(2)(b) repealed (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(4)(b), 148(1)(d), **Sch. 7 Pt. 1**
- F29** Words in s. 3A(2) repealed (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(4)(c), 148(1)(d), **Sch. 7 Pt. 1**

### [<sup>F26</sup>3B General advice as to politically restricted posts: England

- (1) The Secretary of State may in relation to England give such general advice with respect to the determination of questions arising by virtue of section 2(3) as he considers appropriate.
- (2) Before giving general advice under this section the Secretary of State must consult such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.]

#### Textual Amendments

- F26** Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(2)**, 245(5); S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)

### *Duties of particular officers*

#### 4 Designation and reports of head of paid service.

- (1) It shall be the duty of every relevant authority—
  - (a) to designate one of their officers as the head of their paid service; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.
- (2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.
- (3) Those matters are—
  - (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
  - (b) the number and grades of staff required by the authority for the discharge of their functions;
  - (c) the organisation of the authority's staff; and
  - (d) the appointment and proper management of the authority's staff.



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- (4) It shall be the duty of the head of a relevant authority’s paid service, as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be sent to each member of the authority.
- (5) It shall be the duty of a relevant authority to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the <sup>M17</sup>Local Government Act 1972 or in section 56 of [<sup>F30</sup>, or Schedule 10 or 20 to,] the <sup>M18</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.
- (6) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) [<sup>F31</sup>, (ja) and (jb)] of section 21(1) below; and
  - (b) in relation to Scotland, [<sup>F32</sup> council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- (7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F30** Words in s. 4(5) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(3)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F31** Words in s. 4(6)(a) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 81(2)**; S.I. 2009/3318, art. 2(c)
- F32** Words in s. 4(6)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(3)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

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

- C11** S. 4 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 4 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 72(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C12** S. 4 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C13** S. 4 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(a)**
- C14** S. 4(2)-(6) applied (with modifications) (E.) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **17(6)**

#### Marginal Citations

- M17** 1972 c. 70.  
**M18** 1973 c. 65.

## 5 Designation and reports of monitoring officer.

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section [<sup>F33</sup> and, where relevant, section 5A below]; and

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- (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [<sup>F34</sup>and, where relevant, the duties under section 5A below] to be performed;
- and [<sup>F35</sup>subject to subsection (1A) below] the officer so designated may be the head of the authority's paid service [<sup>F36</sup>(or, in the case of a police authority established under [<sup>F37</sup>section 3 of the Police Act 1996][<sup>F38</sup>or the Metropolitan Police Authority], [<sup>F39</sup>the chief executive of the authority])] but shall not be their chief finance officer.
- [<sup>F40</sup>(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority's paid service.
- (1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—
- (a) a county council,
  - (b) a county borough council,
  - (c) a district council,
  - (d) a London borough council,
  - (e) the Greater London Authority, and
  - (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.]
- (2) [<sup>F41</sup>Subject to subsection (2B),] it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, [<sup>F42</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—
- (a) a contravention by the authority, by any committee, [<sup>F42</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any such joint committee of any enactment or rule of law [<sup>F43</sup>or of any code of practice made or approved by or under any enactment]; or
  - [<sup>F44</sup>(aa) any such maladministration or failure as is mentioned in Part 3 of the Local Government Act 1974 (Local Commissioners), or]
  - (b) any such maladministration or injustice as is mentioned in <sup>F45</sup>... Part II of the <sup>M19</sup>Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland)[<sup>F46</sup>; or
  - (c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005,]
- to prepare a report to the authority with respect to that proposal, decision or omission.
- [<sup>F47</sup>(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the <sup>M20</sup>Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.]
- [<sup>F48</sup>(2AA) No duty shall arise by virtue of subsection (2)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 in relation to the proposal, decision or omission concerned.]
- [<sup>F49</sup>(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect

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of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority’s executive.]

- (3) It shall be the duty of a relevant authority’s monitoring officer—
  - (a) in preparing a report under this section to consult so far as practicable with the [<sup>F50</sup>person who is for the time being designated as the head of the authority’s paid service under section 4 above] and with their chief finance officer; and
  - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority [<sup>F51</sup>[<sup>F52</sup>and, in a case where the relevant authority have a mayor and council manager executive, to the council manager of the authority]].

[<sup>F53</sup>(3A) The references in subsection (2) above, in relation to a relevant authority in England, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to—

- (a) any inshore fisheries and conservation authority (“IFC authority”) the members of which include persons who are members of the relevant authority, and
- (b) any sub-committee appointed by such an authority;

but in relation to any such IFC authority or sub-committee the reference in subsection (3)(b) above to each member of the authority shall have effect as a reference to each member of the IFC authority or, as the case may be, of the IFC authority which appointed the sub-committee.]

<sup>F54</sup>(4) .....

(5) It shall be the duty of a relevant authority [<sup>F55</sup>and of any IFC authority falling within paragraph (a) of subsection (3A) above][<sup>F56</sup>and of any such committee as is mentioned in subsection (4) above]—

- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority [<sup>F57</sup>or committee]; and
- (b) without prejudice to any duty imposed by virtue of section 115 of the <sup>M21</sup>Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;

and nothing in section 101 of the <sup>M22</sup>Local Government Act 1972 or in section 56 of <sup>F58</sup>... the <sup>M23</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.

(6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.

(7) The duties of a relevant authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.

[<sup>F59</sup>(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).]

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(8) In this section [<sup>F60</sup>and in section 5A]—

“business day”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the <sup>M24</sup>Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;

“chief finance officer”, in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M25</sup>Local Government Act 1985, section 112 of the Local Government Finance Act 1988 [<sup>F61</sup>, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs; [<sup>F62</sup>and]

[<sup>F63</sup>“inshore fisheries and conservation authority” means the authority for an inshore fisheries and conservation district established under section 149 of the Marine and Coastal Access Act 2009;]

“relevant authority”—

- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to [<sup>F64</sup>(k)] of section 21(1) below; and
- (b) in relation to Scotland, means a local authority.

[<sup>F65</sup>(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.]

(9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F33** Words in s. 5(1)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(a); S.I. 2002/808, arts. 1(2), **22(1)(a)**
- F34** Words in s. 5(1)(b) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(b); S.I. 2002/808, arts. 1(2), **22(1)(b)**
- F35** Words in s. 5(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(2)**
- F36** Words in s. 5(1)(b) inserted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F37** Words in s. 5(1) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2) (zd)**
- F38** Words in s. 5(1) inserted (for certain purposes on the “operative date” (as defined in art. 1(2)(c) of S.I. 2000/1095) and on 3.7.2000 for all other purposes) by 1999 c. 29, s. 325, **Sch. 27 para. 62** (with Sch. 12 para. 9(1)); S.I. 2000/1095, **art. 4(2)(c)**
- F39** Words in s. 5(1) substituted (1.4.2007) by Police and Justice Act 2006 (c. 48), s. 53(1), **Sch. 14 para. 16**; S.I. 2007/709, art. 3(p) (with art. 6)
- F40** S. 5(1A)(1B) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(3)**
- F41** Words in s. 5(2) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(c); S.I. 2002/808, arts. 1(2), **22(1)(c)**
- F42** Words in s. 5(2) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(b)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F43** Words in s. 5(2)(a) repealed (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1)(2), 108(4), Sch. 5 para. 24(1)(4), **Sch. 6**

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- F44** S. 5(2)(aa) inserted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 14(2)(a)**; S.I. 2008/917, art. 2(1)(n) (with art. 6(5))
- F45** Words in s. 5(2)(b) repealed (1.4.2008) by **Local Government and Public Involvement in Health Act 2007** (c. 28), s. 245(5), **Sch. 12 para. 14(2)(b)**, **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(1)(n)(ii)(v) (with art. 6(5))
- F46** S. 5(2)(c) and word inserted (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005** (c. 10), s. 40, **Sch. 6 para. 24(2)**; S.I. 2005/2800, art. 5(1)(3)
- F47** S. 5(2A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(6)**
- F48** S. 5(2AA) inserted (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005** (c. 10), s. 40, **Sch. 6 para. 24(3)**; S.I. 2005/2800, art. 5(1)(3)
- F49** S. 5(2B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(d); S.I. 2002/808, arts. 1(2), **22(1)(d)**
- F50** Words in s. 5(3)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 35(c)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F51** Words in s. 5(3)(b) added (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), **23(1)(e)**; S.I. 2002/808, arts. 1(2), **22(1)(e)**
- F52** Words in s. 5(3)(b) repealed (W.) (10.7.2011) by **Local Government (Wales) Measure 2011** (nawm 4), ss. 34(8)(a), 178(2), **Sch. 4 Pt. B**
- F53** S. 5(3A) inserted (1.10.2010) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 14 para. 13(2)**; S.I. 2010/2195, art. 3(2)(l)
- F54** S. 5(4) repealed (1.4.2010 for W., 1.4.2011 for E.) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F55** Words in s. 5(5) inserted (1.10.2010) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 14 para. 13(3)**; S.I. 2010/2195, art. 3(2)(l)
- F56** Words in s. 5(5) repealed (1.4.2010 for W., 1.4.2011 for E.) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F57** Words in s. 5(5)(a) repealed (1.4.2010 for W., 1.4.2011 for E.) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F58** Words in s. 5(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 161(1)(4)**, **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F59** S. 5(7A) inserted (E.W.) (18.11.2003) by **Local Government Act 2003** (c. 26), ss. **113(3)**, 128(2)(d)
- F60** Words in s. 5(8) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(f); S.I. 2002/808, arts. 1(2), **22(1)(f)**
- F61** S. 5(8): words in the definition of "chief finance officer" inserted (8.5.2000 for specified purposes, otherwise 3.7.2000) by 1999 c. 29, s. **132(1)(2)** (with **Sch. 12 para. 9(1)**); S.I. 1999/3434, arts. **3, 4**
- F62** Word in s. 5(8) repealed (1.4.2010 for W., 1.4.2011 for E.) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F63** Words in s. 5(8) inserted (1.10.2010) by **Marine and Coastal Access Act 2009** (c. 23), s. 324(3), **Sch. 14 para. 13(4)**; S.I. 2010/2195, art. 3(2)(l)
- F64** S. 5(8): words in para. (a) of the definition of "relevant authority" substituted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(7)**
- F65** S. 5(8A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(8)**

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

- C15** S. 5 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(b)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- C16** S. 5 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(1), **Sch. 6 para. 7(3)**
- C17** S. 5 applied (with modifications) (8.5.2000) by 1999 c. 29, s. **73** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2** (as amended: (27.5.2000) by S.I. 2000/1435, art. 2, **Sch. 1 Pt. I**)

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- para. 5;** (E.W.) (28.7.2001) by 2000 c. 22, ss. 107, 108(4), **Sch. 5 para. 24(5), Sch. 6;** and (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 49;** and (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 38;** S.I. 2012/628, **art. 6(i)**
- C18** S. 5 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 15** (with s. 32); S.S.I. 2000/312, **art. 2**
- C19** S. 5 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C20** S. 5 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(b)**
- C21** S. 5 applied (E.) (24.3.2005) by The New Forest National Park Authority (Establishment) Order 2005 (S.I. 2005/421), art. 1, **Sch. 4 para. 9(3)**
- C22** S. 5 applied (E.) (24.3.2010) by The South Downs National Park Authority (Establishment) Order 2010 (S.I. 2010/497), art. 1, **Sch. 4 para. 9(3)**
- C23** S. 5(1) applied (10.5.2000) by S.I. 2000/1095, **art. 6(5)(a)**
- C24** S. 5(2)-(7) applied (with modifications) (E.) (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **8(4)**
- C25** S. 5(2)-(7) applied (with modifications) (E.) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **17(4)**

#### Marginal Citations

- M19** 1975 c. 30.  
**M20** 1974 c. 7.  
**M21** 1988 c. 41.  
**M22** 1972 c. 70.  
**M23** 1973 c. 65.  
**M24** 1971 c. 80.  
**M25** 1985 c. 51.

#### [<sup>F66</sup>5A Reports of monitoring officer—local authorities operating executive arrangements

- (1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.
- (2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.
- (3) The events referred to for the purposes of subsection (2) are—
  - (a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or
  - (b) any such maladministration or [<sup>F67</sup>failure] as is mentioned in Part III of the Local Government Act 1974 <sup>F68</sup> (Local Commissioners)[<sup>F69</sup>; or
  - (c) a matter which the Public Services Ombudsman for Wales would be entitled to investigate under the Public Services Ombudsman (Wales) Act 2005.]
- (4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an

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investigation under Part III of that Act in relation to the proposal, decision or omission concerned.

<sup>F70</sup>(4A) [ No duty shall arise by virtue of subsection (3)(c) above unless the Public Services Ombudsman for Wales has conducted an investigation under the Public Services Ombudsman (Wales) Act 2005 in relation to the proposal, decision or omission concerned.]

- (5) It shall be the duty of an authority’s monitoring officer—
- (a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority’s paid service under section 4 above and with their chief finance officer; and
  - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority [<sup>F71</sup>and, where the authority has a mayor and council manager executive, the council manager].
- (6) It shall be the duty of the authority’s executive—
- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and
  - (b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.
- (7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—
- (a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;
  - (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and
  - (c) the reasons for taking the action specified in the executive’s report or, as the case may be, for taking no action.
- (9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority’s monitoring officer.
- (10) The duties of an authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.]



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#### Textual Amendments

- F66** S. 5A inserted (E.) (11.7.2001) and (W.) (1.4.2002) by [S.I. 2001/3327](#), arts. 1(2), 23(2); [S.I. 2002/808](#), arts. 1(2), **22(2)**
- F67** Word in s. 5A(3)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 12 para. 14(3)**; [S.I. 2008/917](#), art. 2(1)(n) (with art. 6(5))
- F68** 1974 c. 7.
- F69** S. 5A(3)(c) and word inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 6 para. 25(2)**; [S.I. 2005/2800](#), art. 5(1)(3)
- F70** S. 5A(4A) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 6 para. 25(3)**; [S.I. 2005/2800](#), art. 5(1)(3)
- F71** Words in s. 5A(5)(b) repealed (W.) (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 34(8)(b), 178(2), **Sch. 4 Pt. B**

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

- C26** S. 5A(2)-(7) applied (with modifications) (E.) (5.3.2008) by [The Cheshire \(Structural Changes\) Order 2008 \(S.I. 2008/634\)](#), arts. 1, **8(4)**
- C27** S. 5A(2)(5) applied (with modifications) (E.) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), arts. 1, **17(4)**

## 6 Officer responsible for financial administration of certain authorities.

- (1) On and after the commencement day the Common Council shall—
- make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority or port health authority, and
  - secure that one of its officers has responsibility for the administration of those affairs.
- (2) Section 17 of the <sup>M26</sup>City of London Sewers Act 1897 (functions of the chamberlain of the City of London as regards financial affairs) shall cease to have effect on the commencement day.
- (3) On and after the commencement day the person having responsibility for the administration of certain of the financial affairs of the Common Council under subsection (1) above shall—
- be a member of one or more of the bodies specified in subsection (5) below; or
  - be the person who immediately before that day was the chamberlain of the City of London; or
  - be a person who qualifies by virtue of section 113(2)(b) of the <sup>M27</sup>Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - fulfil two or more of those conditions.
- (4) On and after the commencement day the person having responsibility for the administration of the financial affairs of a new successor body under section 73 of the <sup>M28</sup>Local Government Act 1985 shall—
- be a member of one or more of the bodies specified in subsection (5) below; or

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- (b) be the person who immediately before that day had responsibility for the administration of the financial affairs of the body concerned under the said section 73; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (5) The bodies referred to in subsections (3)(a) and (4)(a) above are—
- (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants of Scotland;
  - (c) the Chartered Association of Certified Accountants;
  - (d) the Chartered Institute of Public Finance and Accountancy;
  - (e) the Institute of Chartered Accountants in Ireland;
  - (f) the Chartered Institute of Management Accountants;
  - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.
- (6) The Secretary of State may make regulations containing, as regards the Common Council and any new successor body to which section 73 of the <sup>M29</sup>Local Government Act 1985 applies, provisions equivalent to sections 114 to 116 of the <sup>M30</sup>Local Government Finance Act 1988 (reports etc.) subject to—
- (a) modifications to confine the provisions to the Common Council in its capacity as a local authority, police authority or port health authority; and
  - (b) any other modifications the Secretary of State thinks fit;
- and any such regulations may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) In this section—
- “the commencement day” means the day on which this section comes into force;
  - “the Common Council” means the Common Council of the City of London;
  - “new successor body” means a body corporate established at any time by an order under section 67(3) of the Local Government Act 1985 (new body succeeding to residuary body’s functions).
- (8) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### **Marginal Citations**

- M26** 1897 c. cxxxiii.
- M27** 1988c. 41.
- M28** 1985 c. 51.
- M29** 1985c. 51.
- M30** 1988 c. 41.

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### *Appointment and management etc. of staff*

## 7 All staff to be appointed on merit.

- (1) Every appointment of a person to a paid office or employment under—
- (a) a local authority or parish or community council in England and Wales, or
  - (b) a local authority in Scotland,
- shall be made on merit.
- (2) Subsection (1) above applies to all appointments made by, or by any committee of, a local authority or parish or community council, whether made under section 112 of the Local Government Act 1972 or section 64 of the Local Government (Scotland) Act 1973 (appointment of staff) or otherwise, but has effect subject to—
- <sup>F72</sup>(a) .....
  - [<sup>F73</sup>(b) section 18 of the <sup>M31</sup>Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);]
  - <sup>F74</sup>(c) .....
  - <sup>F74</sup>(d) .....
  - (e) section 113 of the <sup>M32</sup>Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities)]<sup>F75</sup>; and
  - <sup>F76</sup>(f) .....]
  - [<sup>F77</sup>(g) sections 39, 40 and 49 to 51 of the Equality Act 2010 (employees and office-holders), so far as relating to disability, and Schedule 8 to that Act (reasonable adjustments for disabled persons) so far as it applies in relation to sections 39 and 49 to 51 of that Act;
  - (h) paragraph 1 of Schedule 9 to that Act (occupational requirements), so far as relating to sex, pregnancy and maternity, marriage and civil partnership, gender reassignment or race.]
- (3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F72** S. 7(2)(a) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(a)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F73** S. 7(2)(b) repealed (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by **Fire and Rescue Services Act 2004 (c. 21)**, s. 61, **Sch. 2**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F74** S. 7(2)(c)(d) repealed (1.10.2010) by 2010 c. 15, **Sch. 26 para. 18(a)**, **Sch. 27 Pt. 1** (as amended by **The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279)**, art. 1(2), **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2))
- F75** S. 7(2)(f) and preceding “; and” inserted (2.12.1996) by 1995 c. 50, s. 70(4), **Sch. 6 para. 5(c)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F76** S. 7(2)(f) repealed (1.10.2010) by 2010 c. 15, **Sch. 26 para. 18(a)**, **Sch. 27 Pt. 1** (as amended by **The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279)**, art. 1(2), **Sch. 1 para. 5**, **Sch. 2** (see S.I. 2010/2317, art. 2))
- F77** S. 7(2)(g)(h) inserted (1.10.2010) by 2010 c. 15, **Sch. 26 para. 18(b)** (as inserted by **The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279)**, art. 1(2), **Sch. 1 para. 5** (see S.I. 2010/2317, art. 2))

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

- C28** S. 7 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- S. 7 applied (8.5.2000) by 1999 c. 29, **s. 67(6)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C29** S. 7 applied (E.) (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777)**, arts. 1, **17(7)**
- C30** S. 7 applied (E.) (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778)**, arts. 1, **17(7)(c)**

#### **Marginal Citations**

- M31** 1947 c. 41.  
**M32** 1988 c. 41.

## **8 Duty to adopt standing orders with respect to staff.**

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
- (a) to incorporate such provision as may be prescribed by the regulations instanding orders relating to their staff; and
  - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) For the purposes of this section standing orders relate to the staff of a relevant authority if they make provision for regulating—
- (a) the appointment of persons to paid office or employment under the authority; or
  - (b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may require a relevant authority’s standing orders—
- (a) so to restrict the manner of exercising the power to take steps for or towards the selection of candidates for interview, or for appointment, as to make it exercisable only by the authority themselves, by a committee or sub-committee of the authority or by particular officers of the authority;
  - (b) to restrict the power of the authority or any of their committees or sub-committees—
    - (i) to give directions to persons making appointments on their behalf as to the identity of the individuals to be appointed; or
    - (ii) otherwise to interfere with the making of appointments by such persons;
  - (c) to require the monitoring officer of the authority to prepare a report to the authority in respect of every proposed appointment of a person to a politically restricted post;
  - (d) to require every such report to state whether, in the opinion of the monitoring officer, the proposed appointment can be made—
    - (i) without any contravention of any provision made by or under this Part; and

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- (ii) without any matter being taken into account which could not properly be taken into account;
  - and, if in his opinion it cannot be so made, his reasons; and
  - (e) to prohibit the authority or any committee, sub-committee or other person acting on their behalf from dismissing or taking other disciplinary action against a person holding office or employment under the authority except in accordance with recommendations contained in a report made to the authority by an independent person of such a description as is prescribed by the regulations.
- (4) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate; and that provision may include—
- (a) provision which, for the purposes of any such restriction as is mentioned in subsection (3) above, makes modifications of any enactment with respect to the delegation of a relevant authority's functions;
  - (b) provision which (with or without modifications) applies provisions of section 5 above in relation to any report prepared in consequence of regulations made by virtue of subsection (3)(c) above;
  - (c) provision specifying the consequences—
    - (i) in relation to any appointment or contract of employment;
    - (ii) in relation to any proceedings on a complaint to an [<sup>F78</sup>employment tribunal]; and
    - (iii) in relation to any expenditure incurred by the authority, of any contravention of standing orders made in pursuance of the regulations; and
  - [<sup>F79</sup>(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons—
    - (i) in pursuance of section 9 below;
    - (ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and
    - (iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor's assistant).]
- (5) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and
  - (b) in relation to Scotland, means a [<sup>F80</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

#### Textual Amendments

**F78** Words in s. 8(4)(c)(ii) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), Sch. 1

**F79** S. 8(4)(d) substituted (E.) (18.5.2001) by The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 (S.I. 2001/1517), art. 5  
S. 8(4)(d) substituted (W.) (1.4.2002) by The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002 (S.I. 2002/803), art. 5

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**F80** Words in s. 8(5)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(5)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C31** S. 8 with the omission of subsection (4)(c) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 8 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C32** S. 8 applied (E.W.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(d)**
- C33** S. 8 applied (E.W.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**

## 9 Assistants for political groups.

- (1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person's political activities or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.
- (2) An appointment is an appointment in pursuance of this section if—
  - (a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;
  - (b) the terms of the appointment comply with subsection (3) below;
  - (c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and
  - (d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.
- (3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—
  - (a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the <sup>M33</sup>Local Government Act 1972 (annual meeting of principal councils); and
  - (b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the <sup>M34</sup>Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.
- (4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—
  - (a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and



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- (b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;
- and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F81</sup>(4A) An order made under subsection (4)(a) above in relation to England or Wales may, instead of specifying an amount, specify a point on a relevant scale specified by the order.
- (4B) A “relevant scale” is a scale consisting of points and of amounts corresponding to those points.
- (4C) In relation to any time while an order made by virtue of subsection (4A) above is in force, the amount that at that time corresponds to the point specified by the order is to be treated for the purposes of subsection (4)(a) above as specified by the order.]
- (5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—
- (a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;
  - (b) prohibit the allocation of a post to a political group which does not qualify for one; and
  - (c) prohibit the allocation of more than one post to any one political group.
- (6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—
- (a) the membership of that group comprises at least one-tenth of the membership of the authority;
  - (b) the number of the other groups (if any) which are larger than that group does not exceed two; and
  - (c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;
- and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that paragraph as secure that there are no more nor less than three groups which do qualify for a post.
- (7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—
- (a) the groups qualifying for a post shall be that group and one other group; and
  - (b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;
- and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.
- (8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—



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- (a) section 101 of the <sup>M35</sup>Local Government Act 1972 (delegation); or
- (b) section 56 of [<sup>F82</sup>, or Schedule 10 or 20 to,] the <sup>M36</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland), [<sup>F83</sup>; or
- (c) Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)]

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

[<sup>F84</sup>(8A) Neither an executive, a committee of an executive or a member of an executive, of a relevant authority, shall exercise any power under—

- (a) sections 14 to 18 of the Local Government Act 2000 (discharge of functions); or
- (b) section 101(5) of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities),

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

(8B) An area committee of a relevant authority shall not exercise any power under arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.]

(9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.

(10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—

- (a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;
- (b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;
- (c) requiring the question whether a person is or is not a member of a political group to be determined in such manner as may be provided for by or under the regulations;
- (d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;
- (e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(11) In this section—

“appropriate year”, in relation to a post held by any person under a relevant authority, means—

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- (a) where the authority is <sup>[F85]</sup> subject to whole council elections by virtue of Chapter 1 of Part 2 of the Local Government and Public Involvement in Health Act 2007], the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and
- (b) in any other case, the period of twelve months beginning with the third anniversary of that person's appointment to that post;
- <sup>[F86]</sup>“area committee” has the same meaning as in section 18 of the Local Government Act 2000;]
- “membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority;
- “relevant authority”—
- (a) in relation to England and Wales, means the council of any county, <sup>[F87]</sup>county borough] district or London borough; and
- (b) in relation to Scotland, means a <sup>[F88]</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

#### Textual Amendments

- F81** S. 9(4A)-(4C) inserted (E.W.) (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 204, 245(5)**; S.I. 2008/172, art. 2(1)(q)
- F82** Words in s. 9(8)(b) repealed (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\)\(2\), Sch. 13 para. 161\(1\)\(6\)\(a\), Sch. 14](#) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F83** S. 9(8)(c) and the word preceding it inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(a); S.I. 2002/808, arts. 1(2), **23(a)**
- F84** S. 9(8A)(8B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(b); S.I. 2002/808, arts. 1(2), **23(b)**
- F85** Words in s. 9(11) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), **Sch. 2 para. 2**
- F86** S. 9(11): definition of "area committee" inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(c); S.I. 2002/808, arts. 1(2), **23(c)**
- F87** S. 9(11): words in the definition of “relevant authority” para. (a) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(1)**
- F88** S. 9(11): words in the definition of “relevant authority” para. (b) substituted (S.) (1.4.1996) by [1994 c. 39, s. 180\(1\), Sch. 13 para. 161\(1\)\(6\)\(b\)](#) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

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

- C34** S. 9 applied in part (8.5.2000) by [1999 c. 29, s. 67\(8\)](#) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C35** S. 9 applied in part (with modifications) (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), regs. 1(2), **3(7)(8)**

#### Marginal Citations

- M33** 1972 c. 70.  
**M34** 1973 c. 65.  
**M35** 1972 c. 70.  
**M36** 1973 c. 65.

## 10 Limit on paid leave for local authority duties.

- (1) Notwithstanding anything in <sup>[F89]</sup>section 50(4) of the Employment Rights Act 1996] (conditions of time off for public duties), where—

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- (a) a local authority permit an employee of theirs to take time off for the purpose of performing the duties of a member of a relevant council; and
- (b) those duties do not include the duties of chairman of the council,

it shall be unlawful for the authority to make any payment of remuneration or other payment to that employee in respect of so much (if any) of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time off to which the employee would not be entitled apart from his membership of that council.

(2) In this section—

“chairman”, in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

“employee” has the same meaning as in the [<sup>F90</sup>the Employment Rights Act 1996];

“financial year” means the twelve months ending with 31st March; and

“relevant council” means the council of any county, [<sup>F91</sup>county borough] district or London borough, the Common Council of the City of London, a parish or community council or any council in Scotland which is a local authority for the purposes of [<sup>F92</sup>subsection (2) of section 50] of that Act (time off for public duties);

and subsection (3) of that section (meaning of duties of a member of a body) shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

- F89** Words in s. 10(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(a)** (with ss. 191-195, 202)
- F90** S. 10(2): words in the definition of “employee” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(b)(i)** (with ss. 191-195, 202)
- F91** S. 10(2): words in the definition of “relevant council” inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(2)**
- F92** S. 10(2): words in the definition of “relevant council” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(b)(ii)** (with ss. 191-195, 202)

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

- C36** S. 10 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11  
 S. 10 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(3)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- C37** S. 10 applied (E.W.) (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1777), arts. 1, **15(2)**
- C38** S. 10 applied (E.W.) (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1778), arts. 1, **15(2)**

## 11 Confidentiality of staff records.

- (1) Nothing in [<sup>F93</sup>section 17 of the <sup>M37</sup>Local Government Finance Act 1982 or] section 79 of the <sup>M38</sup>Local Government Act 1985 (public inspection of accounts etc.) or in section 101 or 106 of the <sup>M39</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland) shall entitle any person—

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- (a) to inspect so much of any document as contains personal information about a member of the relevant body's staff; or
  - (b) to require any such information to be disclosed in answer to any question.
- (2) Information shall be regarded as personal information about a member of the relevant body's staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—
- (a) that that individual holds or has held any office or employment under that body; or
  - (b) that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that body.
- (3) In this section—
- “document” includes accounts, books, deeds, contracts, bills, vouchers and receipts; and
- “relevant body” in relation to accounts which are required to be audited in accordance with [<sup>F94</sup>the Audit Commission Act 1998] or Part VII of the said Act of 1973, means the body whose accounts are required to be audited or, as the case may be, the Common Council of the City of London;
- and references in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.
- (4) This section shall have effect only in relation to—
- (a) the inspection of, or of documents relating to, accounts for periods beginning on or after 1st April 1990; and
  - (b) the disclosure of information in answer to questions about such accounts.

#### Textual Amendments

**F93** Words in s. 11(1) repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1)(3), 55(2), Sch. 3 para. 18(1)(a), Sch. 5

**F94** S. 11(3): words in definition of “relevant body” substituted (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), Sch. 3 para. 18(1)(b)

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

**C39** S. 11 applied (S.) (temp. 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11

#### Marginal Citations

**M37** 1982 c. 32.

**M38** 1985 c. 51.

**M39** 1973c. 65.

## 12 Conflict of interest in staff negotiations.

- (1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include—
- (a) a person who is both a member of the authority and in such employment; or

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- (b) a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.

(2) In this section—

<sup>F95</sup> [“member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of its constituent or affiliated trade unions;]

“official” and “trade union” have the same meanings as in <sup>M40</sup>[<sup>F96</sup>the Trade Union and Labour Relations (Consolidation) Act 1992]

and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1)(a) of the <sup>M41</sup>Local Government Act 1972 or section 31(1)(a) of the <sup>M42</sup>Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.

(3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

**F95** Definition of 'member' in s. 12(2) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\), ss. 300\(2\), 302, Sch. 2 para. 39\(2\)](#)

**F96** Words in s. 12(2) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\), ss. 300\(2\), 302, Sch. 2 para. 39\(3\)](#)

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

**C40** S. 12 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by [S.I. 1995/789, art. 2, Sch. entry 11](#)

S. 12 extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\), Sch. 7 para. 13\(8\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))

S. 12 applied (with modifications) by [1995 c. x, ss. 1\(3\), 44, Sch. Pt. I](#)

**C41** S. 12 applied (E.W.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\), arts. 1, 17\(7\)\(e\)](#)

**C42** S. 12 applied (E.W.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 17\(7\)](#)

#### Marginal Citations

**M40** 1974 c.52.

**M41** 1972 c. 70.

**M42** 1973 c. 65.

### *Voting rights of members of certain committees*

## 13 Voting rights of members of certain committees: England and Wales.

(1) Subject to the following provisions of this section, a person who—

- (a) is a member of a committee appointed under a power to which this section applies by a relevant authority and is not a member of that authority;
- (b) is a member of a joint committee appointed under such a power by two or more relevant authorities and is not a member of any of those authorities; or
- (c) is a member of a sub-committee appointed under such a power by such a committee as is mentioned in paragraph (a) or (b) above and is not a member

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of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

(2) The powers to which this section applies are—

(a) the powers conferred on any relevant authority by subsection (1) of section 102 of the <sup>M43</sup>Local Government Act 1972 (ordinary committees, joint committees and sub-committees);

<sup>F97</sup>(b) .....

<sup>F98</sup>(c) .....

(3) Nothing in subsection (1) above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (4) below; but, except—

(a) in the case of a sub-committee appointed by a committee falling within paragraph (e) of that subsection; and

(b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

(4) A committee or sub-committee falls within this subsection if it is—

<sup>F99</sup>(a) .....

<sup>F100</sup>(b) .....

(c) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M44</sup>Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);

<sup>F101</sup>(d) .....

(e) a committee appointed under section 102(4) of the Local Government Act 1972 (appointment of advisory committees by local authorities);

(f) a committee constituted in accordance with [<sup>F102</sup>Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)];

[<sup>F103</sup>(fa) an inshore fisheries and conservation authority for a district established under section 149 of the Marine and Coastal Access Act 2009;]

(g) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;

(h) a sub-committee appointed by a committee falling within any of [<sup>F104</sup>paragraphs (b) to (g)] above or such a sub-committee as is so prescribed.

[<sup>F105</sup>(5) Nothing in this section shall prevent the appointment of a person who is not a member of a [<sup>F106</sup>local authority] as a voting member of—

(a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any [<sup>F107</sup>education functions of the authority],

(b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any [<sup>F108</sup>education functions of the authorities], or

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- (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee's functions with respect to education,

where that appointment is required [<sup>F109</sup>either] by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees) [<sup>F110</sup>or pursuant to regulations under subsection (6) of that section].

[<sup>F111</sup>(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in his place, as a voting member of a joint committee, or a sub-committee of such a committee, where—

- (a) that local authority have a mayor and council manager executive <sup>F112</sup>; and  
 (b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive.]

[<sup>F113</sup>(6) The Secretary of State may, if it appears to him appropriate to do so in consequence of the preceding provisions of this section, withdraw any approval given before the coming into force of this section in relation to any arrangements for the purposes of paragraph 1 of Part II of Schedule 1 to the said Act of 1944].

(7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (5) above to a voting member, in relation to any [<sup>F114</sup>committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection], is a reference to a person who is entitled to vote at any meeting of that committee or sub-committee on any question which falls to be decided at that meeting.

(8) In subsection (3) of section 102 of the <sup>M45</sup>Local Government Act 1972, the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities) shall be omitted.

(9) In this section—

[<sup>F115</sup>“council manager”, “executive” [<sup>F116</sup>and “mayor and council manager executive”] have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); <sup>F117</sup>...]

[<sup>F118</sup>“education functions” has the meaning given by section 579(1) of the Education Act 1996; and]

<sup>F119</sup>

“relevant authority” means a local authority of any of the descriptions specified in [<sup>F120</sup>paragraphs (a) to (f) or (h) to [<sup>F121</sup>(jb)]] of section 21(1) below or any parish or community council;

and references in this section to voting include references to making use of a casting vote.

#### Textual Amendments

**F97** S. 13(2)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(a), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**

**F98** S. 13(2)(c) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(h)**



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- F99** S. 13(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F100** S. 13(4)(b) repealed (1.4.2010 for W., 1.4.2011 for E.) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F101** S. 13(4)(d) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F102** Words in s. 13(4)(f) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(2)** (with ss. 1(4), 561, 562, **Sch. 39** paras. 30, 39)
- F103** S. 13(4)(fa) inserted (1.10.2010) by Marine and Coastal Access Act 2009 (c. 23), s. 324(3), **Sch. 14 para. 14**; S.I. 2010/2195, art. 3(2)(l)
- F104** Words in s. 13(4)(h) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F105** S. 13(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(3)** (with ss. 1(4), 561, 562, **Sch. 39** paras. 30, 39)
- F106** Words in s. 13(5) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(4)(a)**
- F107** Words in s. 13(5)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(4)(b)**
- F108** Words in s. 13(5)(b) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(4)(c)**
- F109** Word in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F110** Words in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F111** S. 13(5A) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(c)(i), 178(2), **Sch. 4 Pt. B**
- F112** See regulations 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (S.I. 2000/2851) and the Local Authorities (Executive Arrangements) (Discharge of Functions) (Wales) Regulations 2001 (S.I. 2001/2287 (W.175)).
- F113** S. 13(6) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), **Sch. 19** para. 156(c), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F114** Words in s. 13(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(4)** (with ss. 1(4), 561, 562, **Sch. 39** paras. 30, 39)
- F115** S. 13(9): definition inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(b); S.I. 2002/803, **art. 6(1)(b)**
- F116** Words in s. 13(9) repealed (W.) (10.7.2011) by Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(c)(ii), 178(2), **Sch. 4 Pt. B**
- F117** Word in s. 13(9) repealed (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(5)(a)**, **Sch. 3 Pt. 2**
- F118** Words in s. 13(9) inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(5)(b)**
- F119** S. 13(9): the definition of "foundation governors" and the "and" immediately following it repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), **Sch. 37 Pt. I para. 96(1)(5)**, **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, **Sch. 39** paras. 5, 6, 8, 30, 39)
- F120** S. 13(9): words in the definition of "relevant authority" substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F121** Word in s. 13(9) substituted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 81(3)**; S.I. 2009/3318, art. 2(c)

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

- C43** S. 13 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(2)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)  
S. 13 excluded (8.5.2000) by 1999 c. 29, s. 154(4), **Sch. 10 para. 9(2)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C44** S. 13 applied (E.) (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1778), arts. 1, **17(2)**
- C45** S. 13 applied (E.) (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004** (S.I. 2004/1777), arts. 1, **17(2)**
- C46** S. 13 applied (12.11.2009 for specified purposes, 1.10.2010 in so far as not already in force) by **Marine and Coastal Access Act 2009** (c. 23), **ss. 151(7)(b), 324(1)(c)(d)** (with ss. 172(3), 185); S.I. 2010/2195, **art. 3(2)(b)**
- C47** S. 13 modified (E.) (1.4.2011) by **The Greater Manchester Combined Authority Order 2011** (S.I. 2011/908), arts. 1, **13**
- C48** S. 13(1) excluded (E.) (28.11.2008) by **The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008** (S.I. 2008/2867), regs. 1(1), **16(9)** (with reg. 1(2))

**Marginal Citations**

- M43** 1972 c. 70.
- M44** 1972 c. 11.
- M45** 1972 c. 70.

**14 Voting rights of members of certain committees: Scotland.**

- (1) Subject to the following provisions of this section, a person who—
  - (a) is a member of a committee appointed under subsection (1) of section 57 of the <sup>M46</sup>Local Government (Scotland) Act 1973 by a relevant authority and is not a member of that authority;
  - (b) is a member of a joint committee appointed under that subsection by two or more relevant authorities and is not a member of any of those authorities; or
  - (c) is a member of a sub-committee appointed under that subsection by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

<sup>F122</sup>(2) .....

<sup>F122</sup>(3) .....

- (4) Nothing in [<sup>F123</sup>subsection (1)] above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (5) below; but, except—
  - (a) in the case of a sub-committee appointed by a committee falling within paragraph (b) of that subsection; and
  - (b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

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- (5) A committee or sub-committee falls within this subsection if it is—
- (a) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M47</sup>Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);
  - (b) a committee appointed under section 57(4) of the <sup>M48</sup>Local Government (Scotland) Act 1973 (appointment of advisory committees by local authorities);
  - (c) a committee constituted in accordance with Schedule A1 to the <sup>M49</sup>Education (Scotland) Act 1980 (appeal committees for hearing placing and other appeals);
  - [<sup>F124</sup>(d) a Children’s Panel Advisory Committee formed under paragraph 3, or a joint advisory committee formed under paragraph 8, of Schedule 1 to the Children (Scotland) Act 1995;]
  - (e) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;
  - (f) a sub-committee appointed by a committee falling within any of paragraphs (a) to (e) above or such a sub-committee as is so prescribed.
- [<sup>F125</sup>(6) Nothing in this section shall prevent the appointment as a voting member of—
- (a) a committee such as is mentioned in subsection (1) of section 124 of the <sup>M50</sup>Local Government (Scotland) Act 1973 (committees appointed by education authority); or
  - (b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or
  - (c) any sub-committee of such a committee or joint committee,
- of a person such as is mentioned in subsection (4) of the said section 124.]
- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (6) above to a voting member, in relation to any such committee, joint committee or sub-committee as is mentioned in that subsection, is a reference to a person who is entitled to vote at any meeting of that committee, joint committee or sub-committee on any question which falls to be decided at that meeting.
- (8) In the Local Government (Scotland) Act 1973—
- (a) in section 57(3), the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities);
  - [<sup>F126</sup>(aa) section 124(5);]
  - (b) in section 161(6), the words from “but at least” onwards (which make corresponding provision in relation to a social work committee);
  - (c) in Schedule 10, paragraph 11 (which requires at least half of a joint education committee to be members of the appointing authorities);
  - (d) in Schedule 20, paragraph 10 (which requires at least two-thirds of a joint social work committee to be members of the appointing authorities),
- shall be omitted.

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- (9) In this section “relevant authority” means a [<sup>F127</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and references in this section to voting include references to making use of a casting vote.

#### Textual Amendments

- F122** S. 14(2)(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(7)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F123** Words in s. 14(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(b)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F124** S. 14(5)(d) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 49(1)(2)** (with s. 103(1)); S.I. 1996/3201, art. 3(7)
- F125** S. 14(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(d)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F126** S. 14(8)(aa) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(e)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F127** Words in s. 14(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(f)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

#### Marginal Citations

- M46** 1973 c. 65.  
**M47** 1972 c. 11.  
**M48** 1973 c. 65.  
**M49** 1980 c.44.  
**M50** 1973 c. 65.

*Political balance on committees etc.*

## 15 Duty to allocate seats to political groups.

- (1) It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time;
  - (b) where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the <sup>M51</sup>Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;
  - (c) where, at the time of the meeting required by paragraph 1 of Schedule 7 to the <sup>M52</sup>Local Government (Scotland) Act 1973 to be held in an election year within twenty-one days of the election, the members of the authority are divided into different political groups, at or as soon as practicable after the meeting;
  - (d) as soon as practicable after any such division as is mentioned in paragraphs (a) to (c) above occurs; and
  - (e) at such other times as may be prescribed by regulations made by the Secretary of State.

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- (2) Except in such cases as may be prescribed by regulations made by the Secretary of State, it shall be the duty of every committee of a relevant authority which is a committee having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
  - (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time; and
  - (b) as soon as practicable after any occasion on which the members of the committee are changed in consequence of a determination under this section.
- (3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.
- (4) Subject to subsection (6) below, it shall be the duty of a relevant authority or committee of a relevant authority—
  - (a) in performing their duty under subsection (3) above; and
  - (b) in exercising their power, at times not mentioned in subsection (3) above, to determine the allocation to different political groups of seats on a body to which this section applies,to make only such determinations as give effect, so far as reasonably practicable, to the principles specified in subsection (5) below.
- (5) The principles mentioned in subsection (4) above, in relation to the seats on any body which fall to be filled by appointments made by any relevant authority or committee of a relevant authority, are—
  - (a) that not all the seats on the body are allocated to the same political group;
  - (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
  - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
  - (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.
- (6) Where any relevant authority or committee of a relevant authority are required, in determining the allocation to different political groups of seats on a body to which this section applies, to give effect to the principles specified in subsection (5) above—
  - (a) any seats which, in accordance—
    - (i) with provision made by virtue of subsection (5) of section 13 above;
    - or
    - (ii) with subsection (6) of section 14 above,

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are to be or may be filled by the appointment of persons who are not members of the authority shall be taken into account for the purpose of determining how many seats constitute a majority of the seats on a body mentioned in either of those subsections; but

- (b) that authority or committee shall, in making that determination, disregard for all other purposes any seats which, in accordance with any such provision, the said subsection (6) or otherwise, are to be or may be so filled;

and for the purposes of this subsection a seat on an advisory committee of a relevant authority or on a sub-committee appointed by such an advisory committee shall not be treated as one which may be so filled unless the authority have determined that it must be so filled.

- (7) Schedule 1 to this Act shall have effect for determining the bodies to which this section applies and for the construction of this section and sections 16 and 17 below.

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

- C49** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C50** Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**
- C51** S. 15 excluded (3.4.1995) by 1994 c. 19, **ss. 30(11), 31(9)** (with ss. 54(7), 55(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 5**
- S. 15 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b), Sch. Pt. 2**
- S. 15 extended (E.W.) (26.11.2000 for E. and 28.7.2001 for W.) by 2000 c. 22 ss. 21(11)(b), 108(4); S.I. 2000/2849, **art. 2(a)**
- S. 15 excluded (E.W.) (19.12.2000 for E. and police authorities in Wales otherwise 28.7.2001) by 2000 c. 22, **ss. 53(10), 108(4)**; S.I. 2000/3335, **art. 2**
- S. 15 applied (E.) (2.4.2001) by S.I. 2001/1299, **reg. 6(10)(b)**
- S. 15 excluded (W.) (28.7.2001) by S.I. 2001/2283, **reg. 12**
- S. 15 applied (W.) (28.7.2001) by S.I. 2001/2284, **reg. 5(1)(b)**
- C52** S. 15 applied in part (with modifications) (E.W.) (7.7.2005) by **The North Northamptonshire Joint Committee Order 2005 (S.I. 2005/1552), arts. 1(2), 5(3)**
- C53** S. 15 applied (W.) (16.2.2007) by **The Local Authorities (Alternative Arrangements) (Wales) Regulations 2007 (S.I. 2007/397), regs. 1(1), 9(2)**
- C54** S. 15 excluded (E.W.) (28.11.2008) by **The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (S.I. 2008/2867), regs. 1(1), 17 (with reg. 1(2))**
- C55** S. 15(2)(3)(5) modified by S.I. 1990/1553, **reg. 23** (as added by S.I. 1991/1398, **reg. 8**)

#### **Marginal Citations**

- M51** 1972 c. 70.  
**M52** 1973 c. 65.

## **16 Duty to give effect to allocations.**

- (1) Where any relevant authority or any committee of a relevant authority have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority or committee so to exercise their power to make appointments to that body as to give effect—
- (a) as soon as practicable after the determination; and
- (b) if a vacancy subsequently occurs on that body, as soon as practicable after the occurrence of the vacancy,

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to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.

(2) Where—

- (a) any person has been appointed, otherwise than for a fixed term, to a body to which section 15 above applies; and
- (b) that appointment was made, in pursuance of subsection (1) above, in accordance with the wishes of a political group,

then, so long as that person's seat continues to be allocated to that group, the authority or committee which made the appointment shall act in accordance with the wishes of that group in determining whether and when to terminate the appointment.

(3) The proceedings of a body to which section 15 above applies shall not be invalidated by any defect by virtue of this section or that section in the appointment of any person to that body.

(4) This section applies in relation to an allocation of seats to different political groups whether or not that allocation is made in pursuance of any duty under section 15 above.

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

**C56** Ss. 15-17 applied (with modifications) by [S.I. 1990/1553, regs. 21, 22](#)

**C57** Ss. 15, 16 modified by [S.I. 1990/1553, reg. 16\(1\)\(2\)](#)

**C58** S. 16 applied (with modifications) (8.5.2000) by [1999 c. 29, s. 57\(1\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801, art. 2\(2\)\(b\)](#), [Sch. Pt. 2](#)

**C59** S. 16 applied (with modifications) (E.W.) (7.7.2005) by [The North Northamptonshire Joint Committee Order 2005 \(S.I. 2005/1552\)](#), arts. 1(2), 5(3)

**17 Exceptions to and extensions of political balance requirements.**

(1) Subject to subsection (2) below, sections 15 and 16 above shall not apply in relation to appointments by a relevant authority or committee of a relevant authority to any body in so far as different provision is made by arrangements approved by the authority or committee—

- (a) in such manner as may be prescribed by regulations made by the Secretary of State; and
- (b) without any member of the authority or committee voting against them.

(2) Arrangements approved under subsection (1) above in relation to any body shall not affect any duty imposed by virtue of section 15(1)(c), (d) or (e) or (2) above on a relevant authority or committee to review the representation of different political groups on that body; and, accordingly, such arrangements shall cease to have effect when any such duty arises.

(3) The Secretary of State may, for the purpose of securing what appears to him to be the appropriate representation of different political groups on any sub-committee falling within subsection (4) below, by regulations make such provision as he thinks fit.

(4) The sub-committees that fall within this subsection are those to which appointments may be made by bodies to which section 15 above applies but which are not themselves such bodies.



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- (5) Without prejudice to the generality of subsection (3) above, regulations under that subsection may contain provision applying, with or without modifications, any provision made by or under section 15 or 16 above, subsections (1) and (2) above or Schedule 1 to this Act.

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

**C60** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**

**C61** S. 17 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, **art. 2(2)(b)**, **Sch. Pt. 2**

*Allowances*

**18 Schemes for basic, attendance and special responsibility allowances for local authority members.**

- (1) [<sup>F128</sup>Subject to subsection (1A),] the Secretary of State may by regulations authorise or require any such relevant authority as may be specified or described in the regulations to make a scheme providing for the payment of—
- (a) a basic allowance for every member of the authority who is a councillor;
  - (b) an attendance allowance in relation to the carrying out by any such member of such duties as may be specified in or determined under the regulations; and
  - (c) a special responsibility allowance for any such member who has such special responsibilities in relation to the authority as may be so specified or determined.

[<sup>F129</sup>(1A) In relation to a district council, [county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b).]

- (2) Regulations under this section may also authorise or require a scheme made by a relevant authority under the regulations to include provision for the payment to appointed members of allowances in respect of such losses of earnings and expenses as—
- (a) are necessarily sustained or incurred in the carrying out, in connection with their membership of the authority or any committee or sub-committee of the authority, of duties specified in or determined under the regulations; and
  - (b) are not of a description in respect of which provision is made for an allowance under any of sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973.

[<sup>F130</sup>(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members.]

- (3) Without prejudice to the generality of the powers conferred by subsections (1) [<sup>F131</sup>to (2A)] above, regulations under this section may contain such provision as the Secretary of State considers appropriate for requiring a scheme made by a relevant authority under the regulations—

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- (a) to make it a condition of any payment by way of allowance that, in the financial year to which the payment would relate, the aggregate amount which the authority has paid out or is already liable to pay out under the scheme does not exceed such maximum amount as may be specified in or determined under the regulations;
- (b) to make provision for different maximum amounts to be applicable, for the purposes of any such condition, in relation to different allowances or in relation to different members or members of different groups;
- (c) to make provision in relation to claims which cannot be paid by virtue of any such condition and provision for the payment to members of the authority who are councillors of an amount by way of supplement to the basic allowance where, in any financial year, the aggregate paid out or owing under the scheme is less than an amount specified in or determined under the regulations;
- (d) to provide that the amount authorised by virtue of subsection (2) above to be paid by way of allowance in any case shall not exceed such amount as may be so specified or determined;
- (e) to contain such provision as may be so specified or determined with respect to the general administration of the scheme, with respect to the manner in which, time within which and forms on which claims for any allowance are to be made and with respect to the information to be provided in support of any such claim;
- (f) to contain such provision as may be so specified or determined for avoiding the duplication of payments or of allowances, for determining the bodies by which payments of allowances are to be made and for the apportionment of payments between different bodies.

<sup>F132</sup>(3A) Regulations under this section may make provision for or in connection with—

- (a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,
- (b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.

<sup>F132</sup>(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.

<sup>F132</sup>(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.

<sup>F132</sup>(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of county councils and county borough councils in Wales.

<sup>F132</sup>(3E) Regulations under subsection (3B) above may include provision—

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- (a) with respect to the number of persons who may or must be appointed to the panel of a council,
- (b) with respect to the persons who may or must be appointed to the panel of a council,
- (c) for or in connection with the appointment by councils of joint panels.

<sup>F132</sup>(3F) Regulations under subsection (3C) may include provision—

- (a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,
- (b) with respect to the persons who may or must be appointed to such a panel.

<sup>F132</sup>(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—

- (a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,
- (b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,
- (c) which permits different recommendations to be made in relation to different councils or descriptions of council.]

(4) Regulations under this section may—

- (a) prohibit the payment, otherwise than in accordance with sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973 or in such other cases as may be specified in the regulations, of any allowance to a member of a relevant authority who is a councillor or to any appointed member of a relevant authority;
- (b) impose requirements on a relevant authority with respect to the publication, in the minutes of that authority or otherwise, of the details of amounts paid in pursuance of a scheme made under the regulations;

[<sup>F133</sup>(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and]

- (c) contain such incidental provision and such supplemental, consequential and transitional provision in connection with the other provisions of the regulations as the Secretary of State considers appropriate.

(5) In this section “relevant authority” means—

- (a) a local authority of any of the descriptions specified in any of the paragraphs of section 21(1) below, other than [<sup>F134</sup>paragraphs (d), (g) and (j)], or in section 21(2) below;
- (b) any body on which a body which is a relevant authority by virtue of paragraph (a) above is represented and which is designated as a relevant authority for the purposes of this section by regulations made by the Secretary of State; or
- (c) any appeal committee so designated which is constituted in accordance with [<sup>F135</sup>paragraph 2 or 3 of Schedule 33 to the Education Act 1996];

and references in this section to an appointed member, in relation to a relevant authority, are references to any person who is a member of the authority without being a councillor or who is a member of one or more of the authority’s committees or sub-committees without being a member of the authority.

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[<sup>F136</sup>(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough council shall have regard to any guidance for the time being issued by the Secretary of State.]

(6) In this section any reference to a councillor includes a reference to a member of the authority concerned who, in accordance with regulations under this section, is to be treated as if he were a councillor.

#### Textual Amendments

- F128** Words in s. 18(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, **ss. 99(3)(4)**, 108(4)
- F129** S. 18(1A) inserted (E.W.) (28.7.2001) by 2000 c. 22, **ss. 99(3)(4)**, 108(4)
- F130** S. 18(2A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(5)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F131** S. 18(3): words “to 2A” substituted for “and (2)” (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(6)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F132** S. 18(3A)-(3G) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(7)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F133** S. 18: subsection (4)(ba) substituted for the word “and” in subsection (4)(b) (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(8)**, 108(4); S.I. 2001/415, **art. 2(b)**
- F134** Words in s. 18(5)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 37**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F135** Words in s. 18(5)(c) substituted (1.11.1996) by 1996 c. 56, **ss. 582(1)**, 583(2), **Sch. 37 Pt. I para. 97** (with **ss. 1(4)**, 561, 562, **Sch. 39** paras. 30, 39)
- F136** S. 18(5A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(9)**, 108(4); S.I. 2001/415, **art. 2(b)**

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

- C62** S. 18 applied (with modifications) (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, **art. 2**, **Sch.** entry 11
- S. 18 extended (E.W.) (19.9.1995) by 1995 c. 25, **ss. 63(5)**, 125(2), **Sch. 7 para. 11(1)** (with **ss. 7(6)**, 115, 117, **Sch. 8** para. 7)
- S. 18 modified (E.W.) (19.9.1995) by 1995 c. 25, **ss. 63(5)**, 125(2), **Sch. 7 para. 11(2)** (with **ss. 7(6)**, 115, 117, **Sch. 8** para. 7)
- C63** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**
- C64** S. 18(1)(b) applied (with modifications) (8.1.1996) by 1995 c. x, **ss. 1(3)**, 44, **Sch. Pt. I**
- C65** S. 18(2)(b) restricted (E.) (1.5.2003) by The Local Authorities (Members Allowances) (England) Regulations 2003 (S.I. 2003/1021), **regs. 1(1)**, **34(1)(c)** (with **reg. 34(2)**)
- C66** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**
- C67** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**
- C68** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), **regs. 1(2)**, **2(b)**

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### *Members' interests*

## **19 Members' interests.**

- [<sup>F137</sup>(1) The Secretary of State may by regulations require each member of a local authority—
- (a) to give a general notice to the proper officer of the authority setting out such information about the member's direct and indirect pecuniary interests as may be prescribed by the regulations, or stating that he has no such interests; and
  - (b) from time to time to give to that officer such further notices as may be so prescribed for the purpose of enabling that officer to keep the information provided under the regulations up to date.
- (2) Any member of a local authority who—
- (a) without reasonable excuse fails to comply with the requirements of any regulations under this section; or
  - (b) in giving a notice in compliance with any such requirement, provides information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) Proceedings for an offence under subsection (2) above shall not be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.
- (4) Neither section 96 of the <sup>M53</sup>Local Government Act 1972 (general notice of pecuniary interests) nor section 40 of the <sup>M54</sup>Local Government (Scotland) Act 1973 (corresponding provision for Scotland) shall apply in relation to any notice given in pursuance of any regulations under this section; but such regulations may provide—
- (a) that the giving of a notice in pursuance of any such regulations shall be deemed to be sufficient disclosure for the purposes of section 94 of the said Act of 1972 (disability of members of authorities for voting on account of interest in contracts etc.) or for the purposes of section 38 of the said Act of 1973; and
  - (b) that the proper officer of a local authority is to maintain such records of the information contained in notices given to him as may be prescribed by the regulations and is to keep those records open to inspection by members of the public.
- (5) A local authority shall not be entitled (whether by means of making it a condition of any appointment or by any other means whatever) to impose any obligations on their members to disclose any interests other than those that they are required to disclose by virtue of section 94 of the Local Government Act 1972, section 38 of the Local Government (Scotland) Act 1973 or any regulations under this section.
- (6) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) References in this section to the indirect pecuniary interests of a member of a local authority shall include references to any such interests as, by virtue of any connection between that member or his spouse [<sup>F138</sup>or civil partner] and any other person, would fall to be disclosed—

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- (a) in the case of a local authority in England and Wales, under section 94 of the Local Government Act 1972; or
  - (b) in the case of a local authority in Scotland, under section 38 of the Local Government (Scotland) Act 1973,
- if the authority were proposing to enter into a contract with that other person.]

#### Textual Amendments

- F137** S. 19 repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e)
- F138** Words in s. 19(7) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 133](#); S.I. 2005/3175, art. 2(2)

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

- C69** S. 19 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, [Sch.](#) entry 11  
S. 19 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), [Sch. 7 para. 10\(2\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))  
S. 19 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 154(4), [Sch. 10 para. 13\(12\)](#) (with [Sch. 12 para. 9\(1\)](#)); S.I. 2000/801, art. 2(2)(b), [Sch. Pt. 2](#)  
S. 19 excluded (E.) (27.11.2001, *temp.* until 27.11.2002) by S.I. 2001/3577, [art. 3\(1\)\(b\)](#)  
S. 19 excluded (E.) (27.11.2001, *temp.* until 27.7.2002) by S.I. 2001/3376, [art. 3\(1\)\(c\)](#)
- C70** S. 19 applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, [14\(2\)\(c\)](#)
- C71** S. 19 applied (*temp.*) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [14\(2\)\(c\)](#)
- C72** S. 19 disappplied by SI 2001/2289 art. 4 (as inserted (W.) (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)

#### Commencement Information

- I1** S.19 wholly in force: s. 19 not in force at Royal Assent, see s. 195(2); s. 19 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, [art. 4](#) and in force at 8.5.1992 so far as not already in force by S.I. 1992/760, [art. 2](#)

#### Marginal Citations

- M53** 1972 c. 70.  
**M54** 1973 c.65.

### *Duty to adopt certain procedural standing orders*

#### **20 Duty to adopt certain procedural standing orders.**

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
- (a) to incorporate such provision as may be prescribed by the regulations in standing orders for regulating their proceedings and business; and
  - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may require such standing orders as are mentioned in that subsection to contain provision which, notwithstanding any enactment or the decision of any relevant

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authority or committee or sub-committee of a relevant authority, authorises persons who are members of such an authority, committee or sub-committee—

- (a) to requisition meetings of the authority or of any of their committees or sub-committees;
  - (b) to require a decision of a committee or sub-committee of the authority to be referred to and reviewed by the authority themselves or by a committee of the authority;
  - (c) to require that a vote with respect to a matter falling to be decided by the authority or by any of their committees or sub-committees is to be taken in a particular manner.
- (3) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (4) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to [F139(jb)] of section 21(1) below or any parish or community council; and
  - (b) in relation to Scotland, means a local authority.

#### Textual Amendments

**F139** Word in s. 20(4)(a) substituted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(6), [Sch. 6 para. 81\(4\)](#); S.I. 2009/3318, art. 2(c)

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

**C73** S. 20 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch.](#) entry 11  
 S. 20 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), [Sch. 7 para. 12\(3\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))

### *Interpretation of Part I*

## 21 Interpretation of Part I.

- (1) Any reference in this Part to a local authority is, in relation to England and Wales, a reference to a body of one of the following descriptions—
- (a) a county council;
  - [F140](aa) a county borough council;
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;
  - (e) the Council of the Isles of Scilly;
  - [F141](f) 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;
  - [F142](g) a police authority established under [F143]section 3 of the Police Act 1996[[F144]or the Metropolitan Police Authority];



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- [<sup>F145</sup>(ga) an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities);]
  - (h) an authority established under section 10 of the <sup>M55</sup>Local Government Act 1985 (waste disposal authorities);
  - (i) a joint authority established by Part IV of that Act [<sup>F146</sup>(fire and rescue services and transport)] [<sup>F147</sup>or the London Fire and Emergency Planning Authority];
  - (j) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);
  - [<sup>F148</sup>(ja) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
  - (jb) a combined authority established under section 103 of that Act]
  - (k) the Broads Authority;
  - (l) any joint board the constituent members of which consist of any of the bodies specified above; [<sup>F149</sup> . . . ]
  - <sup>F150</sup>(m) . . . . . [<sup>F151</sup>and
  - <sup>F151</sup>(n) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M56</sup>Town and Country Planning Act 1990.]
- (2) Any reference in this Part to a local authority is, in relation to Scotland, a reference to a [<sup>F152</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board within the meaning of section 235(1) of the <sup>M57</sup>Local Government (Scotland) Act 1973.
- (3) In this Part—
- “contravention” includes a failure to comply;
  - [<sup>F153</sup>[<sup>F154</sup>“council manager”], “executive”, “executive arrangements” [<sup>F154</sup>and “mayor and council manager executive”] have the same meaning as in Part II of the Local Government Act 2000;]
  - “modifications” includes additions, alterations and omissions;
  - “proper officer”—
  - (G) in relation to a local authority in England and Wales, has the same meaning as in the Local Government Act 1972; and
  - (G) in relation to a local authority in Scotland, has the same meaning as in the Local Government (Scotland) Act 1973; and
  - <sup>M58</sup>“subordinate legislation” has the same meaning as in the Interpretation Act 1978.
- (4) References in this Part to an officer of a local authority or to a paid office under a local authority do not include references to, or to the office of, the chairman or vice-chairman of the authority (whether referred to as such, as mayor, Lord Mayor, deputy mayor, as Lord Provost or otherwise [<sup>F155</sup>or a member of any executive of the authority (other than a council manager)]).

**Textual Amendments**

**F140** S. 21(1)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch. para. 3(3)

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- F141** S. 21(1)(f) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by **Fire and Rescue Services Act 2004 (c. 21), s. 61, Sch. 1 para. 71(2)**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F142** S. 21(1)(g) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 38**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F143** Words in s. 21(1)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**
- F144** Words in s. 21(1)(g) substituted (1.4.2002) by 2001 c. 16, s. 128(1), **Sch. 6 Pt. II para. 50**; S.I. 2002/344, **art. 3** (with transitional provisions in art. 4)
- F145** S. 21(1)(ga) inserted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), Sch. 13 para. 47**; S.I. 2008/917, art. 2(1)(p)
- F146** Words in s. 21(1)(i) substituted (1.4.2005) by **Civil Contingencies Act 2004 (c. 36), s. 34(1), Sch. 2 para. 10(3)(b)**; S.I. 2005/772, art. 2(b)
- F147** Words in s. 21(1)(i) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 55** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**
- F148** S. 21(1)(ja)(jb) inserted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), Sch. 6 para. 81(5)**; S.I. 2009/3318, art. 2(c)
- F149** Word in s. 21(1)(l) omitted (23.11.1995) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**
- F150** S. 21(1)(m) repealed (1.4.1997) by 1995 c. 25, s. 120(1), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F151** S. 21(1)(n) and the preceding “and” added (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2(1)**
- F152** Words in s. 21(2) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(8)**; S.I. 1996/323, **art. 4(1)(c)**
- F153** S. 21(3): definition inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(a); S.I. 2002/808, arts. 1(2), **24(a)**
- F154** Words in s. 21(3) repealed (W.) (10.7.2011) by **Local Government (Wales) Measure 2011 (nawm 4), ss. 34(8)(d), 178(2), Sch. 4 Pt. B**
- F155** Words in s. 21(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(b); S.I. 2002/808, arts. 1(2), **24(b)**

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

- C74** S. 21 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. entry 11**

#### Marginal Citations

- M55** 1985 c. 51.  
**M56** 1990 c. 8.  
**M57** 1973 c. 65.  
**M58** 1978 c. 30.

## PART II

### LOCAL GOVERNMENT ADMINISTRATION

#### 22 Advisory Commissioners.

- (1) Section 23 of the <sup>M59</sup>Local Government Act 1974 (constitution and functions of Commissions for Local Administration) shall have effect with the amendments specified in subsections (2) to (4) below.

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) In subsection (1), at the end, there shall be added the words “ but each of the Commissions may include persons appointed to act as advisers, not exceeding the number appointed to conduct investigations.” ”
- (3) In subsection (3), after the words “Parliamentary Commissioner” there shall be inserted the words “ or an advisory member” ”.
- (4) In subsections (4), (5) and (6) the word “Local” shall be omitted.
- (5) In Schedule 4 to the said Act, in paragraph 3 (remuneration), at the end there shall be inserted the following sub-paragraph—
  - “(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.”

#### Marginal Citations

M59 1974 c. 7.

### 23 Advice and guidance by Commissions for Local Administration and Scottish Commissioner.

- (1) In section 23 of the Local Government Act 1974 (appointment and functions of Commissions for Local Administration) there shall be inserted, after subsection (12), the following subsections—

“(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.”

- [<sup>F156</sup>(2) In section 21 of the <sup>M60</sup>Local Government (Scotland) Act 1975 (appointment and functions of Commissioner for Local Administration in Scotland) there shall be inserted, after subsection (4), the following subsection—

“(4A) The Commissioner may, after consultation with such associations of local authorities as appear to him to be appropriate, provide to the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to him to be appropriate and may arrange for it to be published for the information of the public.”]

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**Textual Amendments**  
**F156** S. 23(2) repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 13\(a\)](#); S.S.I. 2002/467, [art. 2](#)

**Marginal Citations**  
**M60** 1975 c. 30.

**24 Expenses of Commissions for Local Administration.**

<sup>F157</sup>(1) . . . . .

(2) Anything done before the passing of this Act which corresponds to a thing authorised or required to be done by any provision of the paragraphs 6(2) and (3), 7 and 8 substituted by subsection (1) above and done for the purposes of sections 78 and 79 of the <sup>M61</sup>Local Government Finance Act 1988 shall be treated as validly done under that provision and those sections shall have effect accordingly.

(3) The foregoing provisions shall have effect for the financial years beginning on or after 1st April 1990.

**Textual Amendments**  
**F157** S. 24(1) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 18 Pt. 14](#); S.I. 2008/917, [art. 2\(v\)\(ii\)](#)

**Marginal Citations**  
**M61** 1988 c. 41.

**25 Annual reports of Commissions: new provisions.**

(1) The representative body for England and the representative body for Wales designated under section 24 of the <sup>M62</sup>Local Government Act 1974 are hereby dissolved and accordingly that section shall cease to have effect.

(2) After section 23 of that Act there shall be inserted the following section—

**“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

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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.”

#### Marginal Citations

M62 1974 c. 7.

## 26 Implementation of recommendations of Commissioners for Local Administration in England and Wales.

- (1) In section 31 of the Local Government Act 1974 (action to be taken in relation to adverse reports), the following subsections shall be substituted for subsections (1) to (2A)—

“(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.

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- (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—
- (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,

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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."

(2) This section shall not have effect in relation to a report made before the coming into force of this section.

### [<sup>F158</sup>27 **Implementation of recommendations of Commissioner for Local Administration in Scotland.**

(1) In section 29 of the <sup>M63</sup>Local Government (Scotland) Act 1975 (action to be taken in relation to adverse reports), the following subsections shall be substituted for subsections (1) to (2A)—

“(1) This section applies where the Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.

[ The report shall be laid before the authority concerned and it shall be the duty <sup>F159</sup>(2) 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 Commissioner may agree in writing, to notify the Commissioner of the action which the authority have taken or propose to take.]]

(2A) If the 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 Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,

he shall make a further report setting out those facts and making recommendations.

(2B) Those recommendations are such recommendations as the Commissioner thinks fit to make with respect to the 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 28 of this Act, 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 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



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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 Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the 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 Commissioner may agree, consisting of—
  - (a) details of any action recommended by the Commissioner in his further report which the authority have not taken;
  - (b) such supporting material as the 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 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 Commissioner may agree in writing, to agree with the Commissioner the form of the statement to be published,

the 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 Commissioner on demand any reasonable expenses incurred by the Commissioner in performing his duty under subsection (2G) above."

- (2) In section 32 of the <sup>M64</sup>Local Government (Scotland) Act 1975 (interpretation of provisions about investigations by the Commissioner) the following subsection shall be inserted after subsection (2)—

"(2A) Except in the case of a joint board or joint committee, references in this Part of this Act to the authority concerned are, in relation to action taken by or on behalf of an authority to whom this Part of this Act applies (whether by virtue of subsection (1) or (2) of section 23 of this Act), references to that authority."

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

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- (3) This section shall not have effect in relation to a report made before the coming into force of this section.

#### Textual Amendments

**F158** S. 27 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 13\(b\)](#); [S.S.I. 2002/467](#), [art. 2](#)

**F159** S. 27(2) repealed (S.) (21.5.1997) by [1997 c. 35](#), ss. 10, 11(2), [Sch.](#)

#### Marginal Citations

**M63** 1975 c. 30.

**M64** 1975 c. 30.

## 28 Consideration of adverse reports: England and Wales.

- (1) The following section shall be inserted after section 31 of the <sup>M65</sup>Local Government Act 1974—

### “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 paragraph 1 of Schedule 2 to the Education Act 1980 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 joint committee established under the said section 101, or
  - 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.

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(6) Section 25(4) and (5) above do not apply to this section.”

(2) This section shall not have effect in relation to a report made before the coming into force of section 26 above.

#### Marginal Citations

M65 1974c. 7.

#### [<sup>F160</sup>29 Consideration of adverse reports: Scotland.

(1) The following section shall be inserted after section 29 of the <sup>M66</sup>Local Government (Scotland) Act 1975—

##### “ 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 Commissioner under section 29(2A) of this Act, be subject to the restriction that, if it is proposed to take no action on, or not the action recommended in, there port, consideration of the report shall be referred to the authority.
- (2) Consideration of a further report of the Commissioner under section 29(2A) of this Act by—
  - (a) any such committee as is mentioned in section 23(2) of this Act; or
  - (b) an education committee appointed under section 124 of the Act of 1973;
 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 joint committee—
  - (a) established under section 56 of the Act of 1973 or under paragraph 7 of Schedule 10 or paragraph 6 of Schedule 20 to that Act (local authority, education and social work joint committees); or
  - (b) referred to in paragraph (a), (b), or (e) of section 23(2) of this Act (fire, police and local government and teachers’ superannuation joint committees).
- (4) If an authority considering a further report of the Commissioner under section 29(2A) of this Act take into consideration a report by a person or body with an interest in the Commissioner’s report, they shall not conclude their consideration of the Commissioner’s report without also having taken into consideration a report by a person or body with no interest in the 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 the Commissioner.”

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- (2) This section shall not have effect in relation to a report made before the coming into force of section 27 above.]

#### Textual Amendments

**F160** S. 29 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 13\(c\)](#); [S.S.I. 2002/467](#), [art. 2](#)

#### Marginal Citations

**M66** 1975c. 30.

### 30 Declaration of acceptance of office of councillor etc.

- (1) Before section 34 of the <sup>M67</sup>Local Government (Scotland) Act 1973 there shall be inserted the following section—

*“ Acceptance of Office*

#### **33A Declaration of acceptance of office of councillor.**

- (1) A person elected to office as a councillor of a local authority shall not, unless—
- (a) he has made a declaration of acceptance of office in a form prescribed by an order made by the Secretary of State; and
  - (b) the declaration has within two months from the day of the election been delivered to the proper officer of the local authority,
- act in the office except for the purpose of taking such a declaration.
- (2) If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected shall at the expiration of that time become vacant.
- (3) The declaration shall be made before either—
- (a) two members of the local authority to which the declarant is elected; or
  - (b) the proper officer of the local authority; or
  - (c) the sheriff; or
  - (d) a justice of the peace.
- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.”
- (2) In section 83 of the <sup>M68</sup>Local Government Act 1972 (declaration of acceptance of office) in subsection (1) and subsection (4), for the words “rules under section 42 above” there shall be substituted the words “an order made by the Secretary of State”.

#### Marginal Citations

**M67** 1973 c. 65.

**M68** 1972 c. 70.

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### 31 National Code of Local Government Conduct.

- [<sup>F161</sup>(1) The Secretary of State, for the guidance of members of local authorities, may issue a code of recommended practice as regards the conduct of members of such authorities to be known as the National Code of Local Government Conduct.
- (2) The Secretary of State may revise or withdraw a code issued under this section.
- (3) The Secretary of State, before issuing, revising or withdrawing a code, shall consult—
- (a) as respects England and Wales, such representatives of local government, and
  - (b) as respects Scotland, such associations of local authorities,
- as appear to him to be appropriate.
- (4) A code shall not be issued unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (5) Where the Secretary of State proposes to revise a code, he shall lay a draft of the proposed alterations before each House of Parliament and—
- (a) he shall not make the revision until after the expiration of the period of 40 days beginning with the day on which the draft is laid (or, if copies are laid before each House of Parliament on different days, with the later of those days); and
  - (b) if within that period either House resolves that the alterations be withdrawn, he shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).
- (6) In reckoning any period of 40 days for the purposes of subsection (5) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- [<sup>F162</sup>(6A) Subsections (4) to (6) above do not apply to a code which applies only to Scotland and such a code shall not be issued unless a draft of it has been laid before and approved by a resolution of the Scottish Parliament.
- <sup>F162</sup>(6B) Where the Scottish Ministers propose to revise such a code as is mentioned in subsection (6A), they shall lay a draft of the proposed alterations before the Scottish Parliament and—
- (a) they shall not make the revision until after the expiration of the period of 40 days beginning with the day on which the draft is laid; and
  - (b) if within that period the Parliament resolves that the alterations be withdrawn, they shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).
- <sup>F162</sup>(6C) In reckoning any period of 40 days for the purposes of subsection (6B) above no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.]
- (7) The form of declaration of acceptance of office under section 83 of the <sup>M69</sup>Local Government Act 1972 or section 33A of the <sup>M70</sup>Local Government (Scotland) Act 1973 may include an undertaking by the declarant to be guided by the National Code of Local Government Conduct in the performance of his functions.
- (8) In this section—
- “local authority” means—
- (a) as respects England and Wales, a county council [<sup>F163</sup>a county borough council,], a district council, a London borough council, a parish council,

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a community council, the Common Council of the City of London or the Council of the Isles of Scilly;

- (b) as respects Scotland, a [<sup>F164</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board or joint committee within the meaning of section 235(1) of the Local Government (Scotland) Act 1973; and

“member”, in relation to a local authority, includes any person who, whether or not a member of the authority, is a member of a committee or sub-committee of the authority or of any joint committee of theirs.]

#### Textual Amendments

- F161** S. 31 repealed (S.) (1.5.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), [ss. 60\(1\)\(g\)](#), [62\(2\)](#); [S.S.I. 2003/134](#), [art. 2\(2\)](#)
- F162** S. 31(6A)-(6C) inserted (1.7.1999) by [S.I. 1999/1820](#), [arts. 1\(2\)](#), [4](#), [Sch. para. 97](#) (with [art. 5](#)); [S.I. 1998/3178](#), [art. 3](#)
- F163** S. 31(8): words in para. (a) of the definition of “local authority” inserted (7.1.1997) by [S.I. 1996/3071](#), [art. 2](#), [Sch. para. 3\(4\)](#)
- F164** S. 31(8): words in para. (b) of the definition of “local authority” substituted (S.) (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)](#), [Sch. 13 para. 161\(1\)\(9\)](#); [S.I. 1996/323](#), [art. 4\(1\)\(c\)](#)

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

- C75** S. 31 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch. para. 11](#)  
S. 31 applied (temp.) (4.5.1995 to 31.3.1996) by [S.I. 1995/1042](#), [art. 4\(1\)](#)  
S. 31 extended (E.W.) (19.9.1995) by [1995 c. 25](#), [ss. 63\(5\)](#), [125\(2\)](#), [Sch. 7 para. 9](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#))  
S. 31 excluded (E.) (temp.) (27.11.2001 to 27.7.2002) by [S.I. 2001/3576](#), [art. 3\(1\)\(c\)](#)
- C76** S. 31 applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), [arts. 1](#), [14\(2\)\(a\)](#)
- C77** S. 31 applied (temp.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), [arts. 1](#), [14\(2\)\(a\)](#)
- C78** S. 31 disappplied by [SI 2001/2289 art. 4](#) (as inserted (W.) (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](#))

#### Marginal Citations

- M69** [1972 c. 70](#).  
**M70** [1973 c. 65](#).

## 32 Anonymity in reports on investigations.

(1) In section 30 of the <sup>M71</sup> Local Government Act 1974 (reports on investigations by Local Commissioners)—

- (a) in subsection (3) (report only to identify a person if the Local Commissioner thinks it necessary), after the words “shall not” there shall be inserted the words “, except where subsection (3A) below applies,”; and
- (b) the following subsection shall be inserted after subsection (3)—

“(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

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(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.”

F165(2) .....

**Textual Amendments**  
**F165** S. 32(2) repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

**Marginal Citations**  
**M71** 1974 c. 7.

**PART III**

ECONOMIC DEVELOPMENT AND DISCRETIONARY EXPENDITURE BY LOCAL AUTHORITIES

F166**33** .....

**Textual Amendments**  
**F166** S. 33 repealed (28.7.2001) by [2000 c. 22, ss. 107, 108\(4\), Sch. 5 para. 27, Sch. 6](#)

F167**34** .....

**Textual Amendments**  
**F167** S. 34 repealed (18.10.2000 for E. and 9.4.2001 for W.) by [2000 c. 22, s. 107, Sch. 5 para. 27, Sch. 6](#); S.I. 2000/2836, [art. 2\(b\)\(iv\)](#); S.I. 2001/1471, [art. 2](#)

F168**35** .....

**Textual Amendments**  
**F168** S. 35 repealed (18.10.2000 for E. and 9.4.2001) by [2000 c. 22, s. 107, Sch. 6](#); S.I. 2000/2836, [art. 2\(b\)\(iv\)](#); S.I. 2001/1471, [art. 2](#)

**36 Amendments of existing power to incur discretionary expenditure.**

(1) Section 137 of the <sup>M72</sup>Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised) shall be amended in



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accordance with subsections (2) to (8) below and, accordingly, after the coming into force of this section, shall have effect as set out in Schedule 2 to this Act.

(2) In subsection (1), after the words “in the interests of” there shall be inserted “ and will bring direct benefit to ”; after the words “incur any expenditure” there shall be inserted “ (a) ” and at the end there shall be added the words “nor

(b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred”.

(3) After subsection (1) there shall be inserted the following subsection—

“(1A) In any case where—

(a) by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and

(b) the power or duty of the authority to incur expenditure for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),

the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitation or condition.”

(4) Subsections (2A) and (2B) (which relate to the giving of financial assistance to persons carrying on commercial or industrial undertakings) shall cease to have effect and, in subsection (2C), paragraph (a) (which relates to publicity on the promotion of the economic development of the authority’s area) shall also cease to have effect.

(5) In subsection (3) (contributions permitted to charitable and public service funds etc.),

(a) for the words “as aforesaid” there shall be substituted “ to the following provisions of this section ”;

(b) in paragraph (b) after the words “public service” there shall be inserted “ (whether to the public at large or to any section of it) ”; and

(c) at the end of paragraph (c) there shall be added “ or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973 ”.

(6) In subsection (4) (expenditure not to exceed the product of a 2p rate) for the words following “not exceed” there shall be substituted “the amount produced by multiplying

(a) such sum as is for the time being appropriate to the authority under subsection (4AA) below, by

(b) the relevant population of the authority’s area”; and subsection (8) (which relates to the computation of a 2p rate) shall cease to have effect.

(7) After subsection (4) there shall be inserted the following subsections—

“(4AA) For the purposes of subsection (4)(a) above, except in so far as the Secretary of State by order specifies a different sum in relation to an authority of a particular description,—

(a) the sum appropriate to a county council or the council of a non-metropolitan district is £2.50;

(b) the sum appropriate to a metropolitan district council, a London borough council or the Common Council is £5.00; and

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(c) the sum appropriate to a parish or community council is £3.50.

(4AB) For the purposes of subsection (4)(b) above the relevant population of a local authority's area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons."

(8) In subsection (4B) (amounts deductible in determining expenditure under the section) for paragraph (a) there shall be substituted the following paragraph—

“(a) the amount of any expenditure which forms part of the authority's gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure)”.

(9) In section 83(3) of the <sup>M73</sup>Local Government (Scotland) Act 1973 (contributions permitted to charitable and public service funds etc.), at the end of paragraph (c) there shall be added “ or by such a person or body as is referred to in section 137(3)(c) of the Local Government Act 1972 ”.

#### **Marginal Citations**

**M72** 1972 c. 70.

**M73** 1973 c. 65.

### **37 Conditions of provision of financial assistance.**

After section 137 of the <sup>M74</sup>Local Government Act 1972 there shall be inserted the following section—

#### **“137A Financial assistance to be conditional on provision of information.**

- (1) If in any financial year a local authority provides financial assistance—
- (a) to a voluntary organisation, as defined in subsection (2D) of section 137 above, or
  - (b) to a body or fund falling within subsection (3) of that section, and the total amount so provided to that organisation, body or fund in that year equals or exceeds the relevant minimum, then, as a condition of the assistance, the authority shall require the organisation, body or fund, within the period of twelve months beginning on the date when the assistance is provided, to furnish to the authority a statement in writing of the use to which that amount has been put.
- (2) In this section “financial assistance” means assistance by way of grant or loan or by entering into a guarantee to secure any money borrowed and, in relation to any financial assistance,—
- (a) any reference to the amount of the assistance is a reference to the amount of money granted or lent by the local authority or borrowed in reliance on the local authority's guarantee; and

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- (b) any reference to the date when the assistance is provided is a reference to the date on which the grant or loan is made or, as the case may be, on which the guarantee is entered into.
- (3) The relevant minimum referred to in subsection (1) above is £2,000 or such higher sum as the Secretary of State may by order specify.
- (4) It shall be a sufficient compliance with a requirement imposed by virtue of subsection (1) above that there is furnished to the local authority concerned an annual report or accounts which contain the information required to be in the statement.
- (5) A statement (or any report or accounts) provided to a local authority in pursuance of such a requirement shall be deposited with the proper officer of the authority.
- (6) In this section “local authority” includes the Common Council.”

**Marginal Citations**

**M74** 1972 c. 70.

**38 Information etc. on individuals’ rights.**

- (1) Section 142 of the <sup>M75</sup>Local Government Act 1972 (provision of information, etc.) shall be amended as follows.
- (2) There shall be inserted after subsection (2)—
- “(2A) A local authority may assist voluntary organisations to provide for individuals—
- (a) information and advice concerning those individuals’ rights and obligations; and
- (b) assistance, either by the making or receiving of communications or by providing representation to or before any person or body, in asserting those rights or fulfilling those obligations.”

**Marginal Citations**

**M75** 1972 c. 70.

**F169 PART IV**

**REVENUE ACCOUNTS AND CAPITAL FINANCE OF LOCAL AUTHORITIES**

**Textual Amendments**

**F169** Pt. IV repealed (18.11.2003 for E. for the repeal of ss. 45, 53, 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E. in so far as not already in force) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), Sch. 7 para. 29; [S.I. 2003/2938](#), arts. 3(h), 7(b) (with art. 8, Sch.); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I (with Sch. 2 para. 2)

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

**C79** Pt. IV savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, [9\(7\)](#)

*Introductory*

**F16939 Application of Part IV.**

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

**C80** S. 39 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, [3](#)

**F16940 Capital purposes.**

.....

*Charge of expenditure to revenue accounts*

**F16941 Expenditure to be charged to revenue account.**

.....

**F16942 Expenditure excluded from section 41(1).**

.....

*Borrowing*

**F16943 Borrowing powers.**

.....

**F16944 Borrowing limits etc.**

.....

**F16945 The authority’s own limits.**

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**F16946 Register of loan instruments and certain existing loans.**

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**F169 47 Security for money borrowed etc.**

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*Credit arrangements*

**F169 48 Credit arrangements.**

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

**C81** S. 48(7) savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

**F169 49 Initial and subsequent cost of credit arrangements.**

.....

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

**C82** S. 49 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

**F169 50 Limits on powers to enter into credit arrangements.**

.....

**F169 51 Variation of credit arrangements.**

.....

**F169 52 Transitional credit arrangements.**

.....

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

**C83** S. 52 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

*Credit approvals*

**F169 53 Basic credit approvals.**

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**F169 54 Supplementary credit approvals.**  
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**F169 55 Criteria for issuing credit approvals.**  
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**F169 56 Use of credit approvals by local authorities.**  
.....

**F169 57 Effect of certain capital grants on credit approvals.**  
.....

*Capital receipts*

**F169 58 Capital receipts.**  
.....

**F169 59 The reserved part of capital receipts.**  
.....

**F169 60 The usable balance of capital receipts.**  
.....

**F169 61 Capital receipts not wholly in money paid to the authority.**  
.....

*Aggregate credit limit*

**F169 62 Aggregate credit limit.**  
.....

*Amounts set aside to meet credit liabilities*

**F169 63 Duty to set certain amounts aside as provision to meet credit liabilities.**  
.....

**F169 64 Use of amounts set aside to meet credit liabilities.**  
.....

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## Supplementary

### <sup>F169</sup>65 Information.

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### <sup>F169</sup>66 Interpretation of Part IV.

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

- C84** S. 66 savings for effects of 2003 c. 26, Sch. 7 para. 29 Sch. 8 (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 3

## PART V

### COMPANIES IN WHICH LOCAL AUTHORITIES HAVE INTERESTS

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

- C85** Pt. 5 (ss. 67-73): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), [Sch. 4](#) para. (j)(iii); [S.I. 1997/1930, art. 2\(1\)\(2\)\(m\)](#)
- C86** Pt. 5 modified (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 95\(5\)\(6\)](#), [128\(2\)\(d\)](#)

### 67 Application of, and orders under, Part V.

- (1) Any reference in this Part to a company is a reference to a body corporate of one of the following descriptions—
- a company limited by shares;
  - a company limited by guarantee and not having a share capital;
  - a company limited by guarantee and having a share capital;
  - an unlimited company; and
  - a society registered or deemed to be registered under the <sup>M76</sup>Industrial and Provident Societies Act 1965 or under the <sup>M77</sup>Industrial and Provident Societies Act (Northern Ireland) 1969.
- (2) Expressions used in paragraphs (a) to (d) of subsection (1) above have the same meaning as in [<sup>F170</sup>the Companies Acts (see section 1174 of, and Schedule 8 to, the Companies Act 2006)].
- (3) Any reference in this Part to a local authority is a reference to a body of one of the following descriptions—
- a county council;
  - <sup>F171</sup>(aa) a county borough council;
  - a district council;
  - <sup>F172</sup>(bb) the Greater London Authority;



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- <sup>F172</sup>(bc) a functional body, within the meaning of the Greater London Authority Act 1999;]
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;
- (e) the Council of the Isles of Scilly;
- (f) a parish council;
- (g) a community council;
- [<sup>F173</sup>(ga) the Greater London Magistrates' Courts Authority;]
- [<sup>F174</sup>(h) 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>F175</sup>(i) a police authority established under [<sup>F176</sup>section 3 of the Police Act 1996]. . . .;]
- (j) an authority established under section 10 of the <sup>M78</sup>Local Government Act 1985 (waste disposal authorities);
- (k) a joint authority established by Part IV of that Act [<sup>F177</sup>(fire and rescue services and transport)];
- (l) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);
- (m) the Broads Authority;
- [<sup>F178</sup>(ma) a National Park authority;]
- (n) any joint board the constituent members of which consist of any of the bodies specified above;
- <sup>F179</sup>(o) . . . . .
- [<sup>F180</sup>(oo) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M79</sup>Town and Country Planning Act 1990; and]
- (p) a Passenger Transport Executive.
- (4) Any power to make an order under this Part shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and under any such power different provision maybe made for different cases and different descriptions of cases (including different provision for different areas).
- [<sup>F181</sup>(5) The power under subsection (4) above to make differential provision includes, in particular, power to make different provision for different local authorities or descriptions of local authority.]

#### Textual Amendments

- F170** Words in s. 67(2) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 104(2)** (with art. 10)
- F171** S. 67(3)(aa) inserted (7.1.1997) by [S.I. 1996/3071](#), art. 2, **Sch. 3(6)**
- F172** S. 67(3)(bb)(bc) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by [1999 c. 29, s. 393\(1\)\(2\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/3434](#), **arts. 3, 4**
- F173** S. 67(3)(ga) inserted (1.4.2001) by [1999 c. 22, s. 83\(3\)](#), [Sch. 12 paras. 4, 6](#) (with s. 107, [Sch. 14 para. 7\(2\)](#)); [S.I. 2001/916](#), **art. 2(a)(i)** (with savings in [Sch. 2 para. 2](#))

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- F174** S. 67(3)(h) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by **Fire and Rescue Services Act 2004 (c. 21), s. 61, Sch. 1 para. 71(3)**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F175** S. 67(3)(i) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 39**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch. 4 Pt. 1 para. 39**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch. 4 Pt. 1 para. 39**
- F176** Words in s. 67(3)(i) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. 1 para. 1(1)(2)(zd)**
- F177** Words in s. 67(3)(k) substituted (1.4.2005) by **Civil Contingencies Act 2004 (c. 36), s. 34(1), Sch. 2 para. 10(3)(b)**; S.I. 2005/772, art. 2(b)
- F178** S. 67(3)(ma) inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 10** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- F179** S. 67(3)(o) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch. 24**
- F180** S. 67(3)(oo) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F181** S. 67(5) inserted (18.11.2003 for E. and 27.11.2003 for W.) by **Local Government Act 2003 (c. 26), s. 128(6), Sch. 3 para. 2**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. 1

#### Commencement Information

- I2** S. 67 wholly in force at 7.10.1993; s. 67 not in force at Royal Assent see s. 195(2); s. 67 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, art. 4; s. 67 in force so far as not already in force at 7.10.1993 by S.I. 1993/2140, art. 3

#### Marginal Citations

- M76** 1965 c.12.  
**M77** 1969 c.24. (N.I.)  
**M78** 1985 c. 51.  
**M79** 1990 c. 8.

## 68 Companies controlled by local authorities and arm's length companies.

(1) For the purposes of this Part, unless the Secretary of State otherwise directs, a company is for the time being under the control of a local authority if—

- [<sup>F182</sup>(a) the company is at that time a subsidiary (as defined in section 1159 of the Companies Act 2006) of the local authority; or]
- (b) paragraph (a) above does not apply but the local authority have at that time power to control a majority of the votes at a general meeting of the company as mentioned in subsection (3) below; or
- (c) paragraph (a) above does not apply but the local authority have at that time power to appoint or remove a majority of the board of directors of the company; or
- (d) the company is under the control of another company which, by virtue of this subsection, is itself under the control of the local authority;

and, for the purposes of paragraph (d) above, any question whether one company is under the control of another shall be determined by applying the preceding provisions of this subsection, substituting a reference to the other company for any reference to the local authority.

(2) A direction under subsection (1) above—

- (a) may be limited in time and may be made conditional upon such matters as appear to the Secretary of State to be appropriate; and

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- (b) may be made with respect to a particular company or a description of companies specified in the direction.
- (3) The reference in subsection (1)(b) above to a power to control a majority of votes at a general meeting of the company is a reference to a power which is exercisable—
- (a) in the case of a company limited by shares, through the holding of equity share capital in any one or more of the following ways, namely, by the local authority, by nominees of the local authority and by persons whose shareholding is under the control of the local authority; or
  - (b) in the case of any company, through the holding of votes at a general meeting of the company in any one or more of the following ways, namely, by the local authority, by a group of members of the company the composition of which is controlled by the local authority and by persons who have contractually bound themselves to vote in accordance with the instructions of the local authority; or
  - (c) partly in one of those ways and partly in the other.
- (4) [<sup>F183</sup>Paragraph 3 of Schedule 6 to the Companies Act 2006 (right to appoint or remove a majority of a company's board of directors) and the following paragraphs of that Schedule as they have effect in relation to paragraph 3] apply for the purposes of subsection (1)(c) above with the substitution for the word “right”, wherever it occurs, of the word “power”.
- (5) For the purposes of subsection (3)(a) above, a person's shareholding is under the control of a local authority if—
- (a) his right to hold the shares arose because of some action which the authority took, or refrained from taking, in order to enable him to have the right; and
  - (b) the local authority, alone or jointly with one or more other persons can require him to transfer his shareholding (or any part of it) to another person.
- (6) Notwithstanding that, by virtue of the preceding provisions of this section, a company is for the time being under the control of a local authority, the company is for the purposes of this Part an “arm's length company”, in relation to any financial year if, at a time before the beginning of that year, the authority resolved that the company should be an arm's length company and, at all times from the passing of that resolution up to the end of the financial year in question, the following conditions have applied while the company has been under the control of the local authority,—
- (a) that each of the directors of the company was appointed for a fixed term of at least two years;
  - (b) that, subject to subsection (7) below, no director of the company has been removed by resolution under [<sup>F184</sup>section 168 of the Companies Act 2006];
  - (c) that not more than one-fifth of the directors of the company have been members or officers of the authority;
  - (d) that the company has not occupied (as tenant or otherwise) any land in which the authority have an interest otherwise than for the best consideration reasonably obtainable;
  - (e) that the company has entered into an agreement with the authority that the company will use its best endeavours to produce a specified positive return on its assets;
  - (f) that, except for the purpose of enabling the company to acquire fixed assets or to provide it with working capital, the authority have not lent money to the company or guaranteed any sum borrowed by it or subscribed for any securities in the company;

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*Changes to legislation:* Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (g) that the authority have not made any grant to the company except in pursuance of an agreement or undertaking entered into before the financial year (within the meaning of <sup>F185</sup>the Companies Act 2006]) of the company in which the grant was made; and
  - (h) that the authority have not made any grant to the company the amount of which is in any way related to the financial results of the company in any period.
- (7) If the Secretary of State so directs, the removal of a director shall be disregarded for the purposes of subsection (6)(b) above; but the Secretary of State shall not give such a direction if it appears to him that the director was removed with a view to influencing the management of the company for other than commercial reasons.

#### Textual Amendments

- F182** S. 68(1)(a) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 104(3)(a)** (with art. 10)
- F183** Words in s. 68(4) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 104(3)(b)** (with art. 10)
- F184** Words in s. 68(6)(b) substituted (1.10.2007) by [The Companies Act 2006 \(Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 1(3)(a), **Sch. 4 para. 54** (with art. 12)
- F185** Words in s. 68(6)(g) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 160(2)** (with arts. 6, 11, 12)

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

- C87** S. 68 applied (with modifications) (11.3.1996) by [S.I. 1996/330](#), **reg. 9(1)**
- C88** S. 68(1) applied (29.4.1996) by [1992 c. 19, s. 1A\(5\)](#) (as inserted (29.4.1996) by [1996 c. 10, s. 5\(2\)](#)) (which amendment fell (11.9.1998) by reason of the repeal of [1996 c. 10, s. 5\(2\)](#) by [1998 c. 18, ss. 54\(3\), 55\(2\)](#), **Sch. 5**)  
S. 68(1) applied (11.9.1998) by [1998 c. 18, ss. 45\(5\), 55\(2\)](#)
- C89** S. 68(1) applied (with modifications) (14.3.1995) by [S.I. 1995/402](#), **reg. 3(2)**
- C90** S. 68(1) applied (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), **ss. 48(6), 73**; [S.I. 2005/558](#), art. 2, **Sch. 1**

#### Commencement Information

- I3** S. 68 wholly in force at 7.10.1993; s. 68 not in force at Royal Assent see s. 195(2); s. 68 in force for certain purposes at 16.1.1990 by [S.I. 1989/2445](#), **art. 4**; s. 68 in force so far as not already in force at 7.10.1993 by [S.I. 1993/2410](#), **art. 3**

## 69 Companies subject to local authority influence.

- (1) For the purposes of this Part, unless the Secretary of State otherwise directs, a company which is not at the time under the control of a local authority is for the time being subject to the influence of a local authority if it is not a banking or insurance company or a member of a banking or insurance group and at that time there is such a business relationship between the company and the authority as is referred to in subsection (3) below and either—
- (a) at least 20 per cent. of the total voting rights of all the members having the right to vote at a general meeting of the company are held by persons who are associated with the authority as mentioned in subsection (5) below; or

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- (b) at least 20 per cent. of the directors of the company are persons who are so associated; or
  - (c) at least 20 per cent. of the total voting rights at a meeting of the directors of the company are held by persons who are so associated.
- (2) A direction under subsection (1) above—
- (a) may be limited in time and may be made conditional upon such matters as appear to the Secretary of State to be appropriate; and
  - (b) may be made with respect to a particular company or a description of companies specified in the direction.
- (3) For the purposes of this section there is a business relationship between a company and a local authority at any time if the condition in any one or more of the following paragraphs is fulfilled—
- (a) within a period of twelve months which includes that time the aggregate of the payments to the company by the authority or by another company which is under the control of the authority represents more than one-half of the company's turnover, as shown in its profit and loss account for the most recent financial year for which the company's auditors have made a report on the accounts or, if there is no such account, as estimated by the authority for the period of twelve months preceding the date of the estimate or for such part of that period as follows the formation of the company;
  - (b) more than one-half of the company's turnover referred to in paragraph (a) above is derived from the exploitation of assets of any description in which the local authority or a company under the control of the authority has an interest (disregarding an interest in land which is in reversion on a lease granted for more than 7 years);
  - (c) the aggregate of—
    - (i) grants made either by the authority and being expenditure for capital purposes or by a company under the control of the authority, and
    - (ii) the nominal value of shares or stock in the company which is owned by the authority or by a company under the control of the authority, exceeds one-half of the net assets of the company;
  - (d) the aggregate of—
    - (i) grants falling within paragraph (c)(i) above,
    - (ii) loans or other advances made or guaranteed by the authority or by a company under the control of the authority, and
    - (iii) the nominal value referred to in paragraph (c)(ii) above, exceeds one-half of the fixed and current assets of the company;
  - (e) the company at that time occupies land by virtue of an interest which it obtained from the local authority or a company under the control of the authority and which it so obtained at less than the best consideration reasonably obtainable; and
  - (f) the company intends at that time to enter into (or complete) a transaction and, when that is done, there will then be a business relationship between the company and the authority by virtue of any of paragraphs (a) to (e) above.
- (4) In subsection (3) above—
- (a) the reference in paragraph (c) to the net assets of the company shall be construed in accordance with <sup>F186</sup>section 677(2) and (3) of the Companies Act 2006]; and

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[<sup>F187</sup>(b) “fixed assets” means assets of a company that are intended for use on a continuing basis in the company's activities, and “current assets” means assets not intended for such use;]

and in either case, the reference is a reference to those assets as shown in the most recent balance sheet of the company on which, at the time in question, the auditors have made a report or, if there is no such balance sheet, as estimated by the local authority for the time in question.

(5) For the purposes of this section, a person is at any time associated with a local authority if—

- (a) he is at that time a member of the authority;
- (b) he is at that time an officer of the authority;
- (c) he is at that time both an employee and either a director, manager, secretary or other similar officer of a company which is under the control of the authority; or
- (d) at any time within the preceding four years he has been associated with the authority by virtue of paragraph (a) above.

(6) If and to the extent that the Secretary of State by order so provides, a person is at any time associated with a local authority if—

- (a) at that time he is, or is employed by or by a subsidiary of, a person who for the time being has a contractual relationship with the authority to provide—
  - (i) advice with regard to the authority's interest in any company (whether existing or proposed to be formed), or
  - (ii) advice with regard to the management of an undertaking or the development of land by a company (whether existing or proposed to be formed) with which it is proposed that the authority should enter into any lease, licence or other contract or to which it is proposed that the authority should make any grant or loan, or
  - (iii) services which facilitate the exercise of the authority's rights in any company (whether by acting as the authority's representative at a meeting of the company or as a director appointed by the authority or otherwise);
- (b) at any time within the preceding four years, he has been associated with the authority by virtue of paragraph (b) or paragraph (c) of subsection (5) above;
- (c) he is at that time the spouse [<sup>F188</sup>or civil partner] of, or carries on business in partnership with, a person who is associated with the authority by virtue of subsection (5)(a) above; or
- (d) he holds a relevant office in a political association or other body which, in the nomination paper of a person who is an elected member of the authority, formed part of that person's description.

(7) For the purposes of subsection (6)(d) above, an office in a political association or body is relevant to a local authority in the following circumstances—

- (a) if the association or body is active only in the area of the local authority, any office in it is relevant; and
- (b) in any other case, an office is relevant only if it is in a branch or other part of the association or body which is active in the area of the local authority.

(8) In relation to a company which is an industrial and provident society, any reference in this section to the directors of the company is a reference to the members of the committee of management.

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- (9) Subject to subsections (4) and (8) and section 67 above, expressions used in this section have the same meaning as in [F189 the Companies Acts (as defined in section 2 of the Companies Act 2006)].

#### Textual Amendments

- F186** Words in s. 69(4)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 160(3)(a)** (with arts. 6, 11, 12)
- F187** S. 69(4)(b) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 160(3)(b)** (with arts. 6, 11, 12)
- F188** Words in s. 69(6)(c) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), **Sch. 27 para. 134**; S.I. 2005/3175, art. 2(2)
- F189** Words in s. 69(9) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 160(3)(c)** (with arts. 6, 11, 12)

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

- C91** S. 69 applied (with modifications) (11.3.1996) by [S.I. 1996/330](#), **reg. 9(2)**

#### Commencement Information

- I4** S. 69 wholly in force at 7.10.1993; s. 69 not in force at Royal Assent see s. 195(2); s. 69 in force for certain purposes at 16.1.1990 by [S.I.1989/2445](#), **art. 4**; s. 69 in force so far as not already in force at 7.10.1993 by [S.I. 1993/2410](#), **art. 3**

## 70 Requirements for companies under control or subject to influence of local authorities.

- (1) In relation to companies under the control of local authorities and companies subject to the influence of local authorities, the Secretary of State may by order make provision regulating, forbidding or requiring the taking of certain actions or courses of action; and an order under this subsection may—
- (a) make provision in relation to those companies which are arm's length companies different from that applicable to companies which are not; and
  - (b) make provision in relation to companies under the control of local authorities different from that applicable in relation to companies under the influence of local authorities.
- (2) It shall be the duty of every local authority to ensure, so far as practicable, that any company under its control complies with [F190 any provisions made by order under subsection (1) above which are for the time being applicable to it]; and if a local authority fails to perform that duty in relation to any company, any payment made by the authority to that company and any other expenditure incurred by the authority in contravention of any such provisions shall be deemed for the purposes of [F191 the Audit Commission Act 1998][F192 and Part 2 of the Public Audit (Wales) Act 2004] to be expenditure which is unlawful.
- (3) In order to secure compliance, in relation to companies subject to the influence of [F193 a local authority], with provisions made by virtue of subsection (1) above, an order under that subsection may prescribe requirements to be complied with by [F194 the] local authority in relation to conditions to be included in such leases, licences, contracts, gifts, grants or loans as may be so prescribed which are made with or to a company subject to the influence of the local authority.



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- (4) It shall be the duty of a local authority to comply with any requirements for the time being applicable to it under subsection (3) above; and if a local authority fails to perform that duty, any expenditure which is incurred by the local authority under the lease, licence, contract, gift, grant or loan in question shall be deemed for the purposes of <sup>F195</sup>the Audit Commission Act 1998<sup>F196</sup> and Part 2 of the Public Audit (Wales) Act 2004<sup>F196</sup> to be expenditure which is unlawful.
- (5) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection may make provision requiring a company or local authority to obtain the consent of the Secretary of State, or of the Audit Commission for Local Authorities <sup>F197</sup>and the National Health Service in England<sup>F198</sup> or of the Auditor General for Wales,<sup>F198</sup> before taking any particular action or course of action.
- <sup>F199</sup>(6) An order under subsection (1) may be made in relation to—
- (a) all local authorities,
  - (b) particular local authorities, or
  - (c) particular descriptions of local authority.]

#### Textual Amendments

- F190** Words in s. 70(2) substituted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 30\(2\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F191** Words in s. 70(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), [Sch. 3 para. 18\(3\)\(a\)](#)
- F192** Words in s. 70(2) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 12\(1\)\(2\)](#); S.I. 2005/558, art. 2, Sch. 1
- F193** Words in s. 70(3) substituted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 30\(3\)\(a\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F194** Word in s. 70(3) substituted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 7 para. 30\(3\)\(b\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F195** Words in s. 70(4) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), [Sch. para. 18\(3\)\(b\)](#)
- F196** Words in s. 70(4) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 12\(1\)\(3\)](#); S.I. 2005/558, art. 2, Sch. 1
- F197** Words in s. 70(5) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 9 para. 2\(2\)\(b\)](#); S.I. 2008/172, art. 4(a)
- F198** Words in s. 70(5) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 12\(1\)\(4\)](#); S.I. 2005/558, art. 2, Sch. 1
- F199** S. 70(6) inserted (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 3 para. 3](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

#### Commencement Information

- I5** S. 70 wholly in force at 7.10.1993; s. 70 not in force at Royal Assent see s. 195(2); s. 70 in force for certain purposes at 16.1.1990 by [S.I.1989/2445, art. 4](#); s. 70 in force so far as not already in force at 7.10.1993 by [S.I.1993/2410, art. 3](#)

## 71 Control of minority interests etc. in certain companies.

- (1) In relation to a local authority, subsection (2) below applies to any company other than—

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- (a) a company which is or, if the action referred to in that subsection is taken, will be under the control of the local authority; and
  - (b) a company of a description specified for the purposes of this section by an order made by the Secretary of State;
- and in this section an “authorised company” means a company falling within paragraph (b) above.
- (2) Except with the approval of the Secretary of State, in relation to a company to which this subsection applies, a local authority may not—
- (a) subscribe for, or acquire, whether in their own name or in the name of a nominee, any shares or share warrants in the company;
  - (b) become or remain a member of the company if it is limited by guarantee;
  - (c) exercise any power, however arising, to nominate any person to become a member of the company;
  - (d) exercise any power to appoint directors of the company;
  - (e) permit any officer of the authority, in the course of his employment, to make any such nomination or appointment as is referred to in paragraph (c) or paragraph (d) above; or
  - (f) permit an officer of the authority, in the course of his employment, to become or remain a member or director of the company.
- (3) Any approval of the Secretary of State under subsection (2) above may be general or relate to any specific matter or company.
- (4) A local authority may not take any action, or refrain from exercising any right, which would have the result that a person who is disqualified from membership of the authority (otherwise than by being employed by that or any other local authority or by a company which is under the control of a local authority) becomes a member or director of an authorised company or is authorised, in accordance with [<sup>F200</sup>section 323 of the Companies Act 2006], to act as the authority’s representative at a general meeting of an authorised company (or at meetings of an authorised company which include a general meeting).
- (5) In any case where,—
- (a) in accordance with [<sup>F201</sup>section 323 of the Companies Act 2006], a local authority have authorised a member or officer of the authority to act as mentioned in subsection (4) above, or
  - (b) a member or officer of a local authority has become a member or director of an authorised company as mentioned in subsection (7) below,
- the authority shall make arrangements (whether by standing orders or otherwise) for enabling members of the authority, in the course of proceedings of the authority (or of any committee or sub-committee thereof), [<sup>F202</sup>or, where a local authority is operating executive arrangements under Part II of the Local Government Act 2000, for enabling members of the executive, in the course of proceedings of the executive (or of any committee of the executive),] to put to the member or officer concerned questions about the activities of the company.
- (6) Nothing in subsection (5) above shall require the member or officer referred to in that subsection to disclose any information about the company which has been communicated to him in confidence.
- (7) Any member or officer of a local authority who has become a member or director of an authorised company by virtue of—

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- (a) a nomination made by the authority, or
- (b) election at a meeting of the company at which voting rights were exercisable (whether or not exercised) by the authority or by a person bound to vote in accordance with the instructions of the authority, or
- (c) an appointment made by the directors of another company, the majority of whom became directors of that company by virtue of a nomination made by the authority or election at a meeting of the company at which voting rights were exercisable as mentioned in paragraph (b) above,

shall make a declaration to the authority, in such form as they may require, of any remuneration or re-imbursement of expenses which he receives from the company as a member or director or in respect of anything done on behalf of the company.

- (8) Subject to section 67 above, expressions used in this section have the same meaning as in <sup>F203</sup>the Companies Acts (as defined in section 2 of the Companies Act 2006)].

#### Textual Amendments

**F200** Words in s. 71(4) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 160\(4\)\(a\)](#) (with arts. 6, 11, 12)

**F201** Words in s. 71(5)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 160\(4\)\(a\)](#) (with arts. 6, 11, 12)

**F202** Words in s. 71(5) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by [S.I. 2001/2237](#), arts. 1(2), 26(1); [S.I. 2002/808](#), arts. 1(2), [25\(1\)](#)

**F203** Words in s. 71(8) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 160\(4\)\(b\)](#) (with arts. 6, 11, 12)

#### Commencement Information

**I6** S. 71 partly in force; s. 71 not in force at Royal Assent see s. 195(2); s. 71 in force for specified purposes at 16.1.1990 by [S.I. 1989/2445](#), [art. 4](#); s. 71(1)(5) in force for specified purposes and s. 71(4)(6)(8) fully in force at 1.4.1995 by [S.I. 1995/841](#), [art. 2](#) (with transitional provisions in [art. 3](#))

## 72 Trusts influenced by local authorities.

- (1) The Secretary of State may by order made by statutory instrument adapt the provisions of section 69 above so as to make them applicable to trusts which are not charitable; and, subject to subsection (2) below, this Part shall apply in relation to trusts which are subject to local authority influence by virtue of that section as so adapted as it applies in relation to companies which are subject to local authority influence.
- (2) In the exercise of the power conferred by section 70 above, as applied in relation to trusts by subsection (1) above, the Secretary of State may make different provision for trusts as compared with companies.

#### Commencement Information

**I7** S. 72 wholly in force at 7.10.1993; s. 72 not in force at Royal Assent see s. 195(2); s. 72 in force for certain purposes at 16.1.1990 by [S.I. 1989/2445](#), [art. 4](#); s. 72 in force so far as not already in force at 7.10.1993 by [S.I. 1993/2410](#), [art. 3](#)

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### **73 Authorities acting jointly and by committees.**

(1) In any case where—

- (a) apart from this section a company would not be under the control of anyone local authority, but
- (b) if the actions, powers and interests of two or more local authorities were treated as those of one authority alone, the company would be under the control of that one authority,

the company shall be treated for the purposes of this Part as under the control of each of the two or more local authorities mentioned in paragraph (b) above.

(2) In any case where, apart from this section, a company would not be treated as being subject to the influence of any one local authority, it shall be treated as being subject to the influence of each of a number of local authorities (in this section referred to as a “group”) if the conditions in subsection (3) below are fulfilled with respect to the company and the group of authorities.

(3) The conditions referred to in subsection (2) above are—

- (a) that at least one of the conditions in paragraphs (a) to (e) of subsection (3) of section 69 above would be fulfilled—
  - (i) if any reference therein to the company being under the control of a local authority were a reference to its being under the control of any one of the authorities in the group or of any two or more of them taken together; and
  - (ii) if any other reference therein to the local authority were a reference to any two or more of the authorities in the group taken together; and
- (b) that at least one of the conditions in paragraphs (a) to (c) of subsection(1) of section 69 above would be fulfilled if any reference therein to the local authority were a reference to those local authorities who are taken into account under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) above taken together; and
- (c) that if the condition (or one of the conditions) which would be fulfilled as mentioned in paragraph (b) above is that in subsection (1)(a) of section 69 above, then, so far as concerns each local authority in the group, at least one person who, in terms of subsection (5) of that section, is associated with that authority has the right to vote at a general meeting of the company; and
- (d) that, if paragraph (c) above does not apply, then, so far as concerns each local authority in the group, a person who, in terms of section 69(5) above, is associated with the authority is a director of the company.

(4) For the purposes of this Part, anything done, and any power exercisable, by a committee or sub-committee of a local authority, or by any of the authority’s officers [F204 or, where a local authority is operating executive arrangements under Part II of the Local Government Act 2000, by the authority’s executive, any committee of the executive, or any member of the executive], shall be treated as done or, as the case may be, exercisable by the authority.

(5) For the purposes of this Part, anything done, and any power exercisable, by a joint committee of two or more local authorities or by a sub-committee of such a joint committee shall be treated as done or, as the case may be, exercisable by each of the local authorities concerned.

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### Textual Amendments

**F204** Words in s. 73(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by [S.I. 2001/2237](#), arts. 1(2), 26(2); [S.I. 2002/808](#), arts. 1(2), **25(2)**

## PART VI

### HOUSING FINANCE

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

**C92** Pt. 6 (ss. 74-86) applied (1.4.1997) by [1992 c. 5, s. 140G](#) (as inserted (1.4.1997) by [1996 c. 52, s. 121, Sch. 12 paras. 4](#); [S.I. 1997/618](#), art. 2 (subject to transitional provisions in [Sch.](#)))

**C93** Pt. 6 modified (E.) (28.11.2008) by [The Local Government \(Structural Changes\) \(Transitional Arrangements\) \(No.2\) Regulations 2008](#) (S.I. 2008/2867), regs. 1(1), **26** (with reg. 1(2))

#### *Housing accounts*

#### 74 Duty to keep Housing Revenue Account.

- (1) A local housing authority shall keep, in accordance with proper practices, an account, called the “Housing Revenue Account”, of sums falling to be credited or debited in respect of—
- (a) houses and other buildings which have been provided under Part II of the <sup>M80</sup>Housing Act 1985 (provision of housing);
  - (b) land which has been acquired or appropriated for the purposes of that Part;
  - (c) houses purchased under section 192 of that Act (purchase of house found on appeal against repair notice to be unfit and beyond repair at reasonable cost);
  - (d) dwellings in respect of which a local authority have received assistance under section 1 or section 4(2A) of the <sup>M81</sup>Housing (Rural Workers) Act 1926;
  - (e) any property which—
    - (i) with the consent of the Secretary of State given under section 417(1) of the Housing Act 1985,
    - (ii) with the consent of a Minister given under section 50(1)(e) of the <sup>M82</sup>Housing (Financial Provisions) Act 1958, or
    - (iii) by virtue of section 50(2) of that Act (houses vesting in local authority on default of another person),was brought within the corresponding account kept under Part XIII of the Housing Act 1985 for years beginning before 1st April 1990; and
  - (f) such land, houses or other buildings not within the preceding paragraphs as the Secretary of State may direct.
- (2) References in subsection (1) above and the other provisions of this Part to provisions of the Housing Act 1985 include, where the context so admits, references to the corresponding provisions of earlier enactments; and the reference in paragraph (b) of that subsection to land acquired for the purposes of Part II of that Act includes—
- (a) land which a local authority were deemed to have acquired under Part V of the <sup>M83</sup>Housing Act 1957 by virtue of section 57(6) of that Act (land acquired

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- for re-development in pursuance of re-development plan) before the repeal of that section on 25th August 1969; and
- (b) any structures on such land which were made available to a local authority under section 1 of the <sup>M84</sup>Housing (Temporary Accommodation) Act 1944 (prefabs).
- (3) Paragraphs (a) to (e) of subsection (1) above shall not apply to—
- (a) land, houses or other buildings disposed of by the authority;
- (b) land acquired by the authority for the purpose of disposing of houses provided, or to be provided, on the land, or of disposing of the land to a person who intends to provide housing accommodation on it [<sup>F205</sup>or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided];
- (c) houses provided by the authority on land so acquired; or
- (d) such land, houses or other buildings as the Secretary of State may direct;
- and paragraph (a) of that subsection shall not apply to houses and other buildings provided on or before 6th February 1919.
- (4) A local housing authority not possessing property to which subsection (1) above applies shall nevertheless keep a Housing Revenue Account unless the Secretary of State consents to their not doing so and they comply with such conditions (if any) as may be specified in the consent.
- (5) In this Part—
- (a) references to the houses or other property of an authority within the authority's Housing Revenue Account are references to the houses, dwellings or other property to which subsection (1) above for the time being applies; and
- (b) references (however expressed) to a disposal are references to a conveyance of the freehold, or a grant or assignment of a lease (other than a shared ownership lease) which is a long tenancy within the meaning given by section 115 of the <sup>M85</sup>Housing Act 1985.
- (6) Sections 417 to 420 of, and Schedule 14 to, the Housing Act 1985 (which are superseded by this section, sections 75 to 78 below and Schedule 4 to this Act) shall cease to have effect.

#### Textual Amendments

**F205** Words in s. 74(3)(b) inserted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 para. 24(2)**

#### Marginal Citations

**M80** 1985 c. 68.  
**M81** 1926 c. 56.  
**M82** 1958 c. 42.  
**M83** 1957 c. 56.  
**M84** 1944 c. 36.  
**M85** 1985 c. 68.

## 75 The keeping of the Housing Revenue Account.

Schedule 4 to this Act shall have effect with respect to the keeping of a local housing authority's Housing Revenue Account, as follows—

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- Part I - Credits to the account.
- Part II - Debits to the account.
- Part III - Special cases.
- Part IV - Supplementary provisions.

## **76 Duty to prevent debit balance on Housing Revenue Account.**

- (1) This section applies where for any year (“the relevant year”) a local housing authority who are required to keep a Housing Revenue Account possess any houses or other property within the account.
- (2) The authority shall, during the months of January and February immediately preceding the relevant year, formulate proposals which satisfy the requirements of subsection (3) below and relate to—
  - (a) the income of the authority for the year from rents and other charges in respect of houses and other property within their Housing Revenue Account;
  - (b) the expenditure of the authority for the year in respect of the repair, maintenance, supervision and management of such property; and
  - (c) such other matters connected with the exercise of the authority’s functions in relation to such property as the Secretary of State may direct.
- (3) Proposals formulated by the authority under subsection (2) above satisfy the requirements of this subsection at any time if, on the assumption that the following will prove correct, namely—
  - (a) the best assumptions that they are able to make at that time as to all matters which may affect the amounts falling to be credited or debited to their Housing Revenue Account for the relevant year; and
  - (b) the best estimates that they are able to make at that time of the amounts which, on those assumptions, will fall to be so credited or debited,implementation of the proposals will secure that the account for that year does not show a debit balance.
- (4) No assumptions shall be made under subsection (3) above as to the exercise by the Secretary of State of any power except on the basis of information published by him or on his behalf or supplied by him to the authority.
- (5) Subject to subsections (6) and (7) below, the authority shall implement the proposals formulated by them under subsection (2) above.
- (6) The authority shall from time to time determine whether the proposals formulated under subsection (2) above satisfy the requirements of subsection (3) above; and—
  - (a) if they determine that question in the affirmative, they may make such revisions of the proposals as they think fit, so long as the proposals (as so revised) continue to satisfy those requirements;
  - (b) if they determine that question in the negative, they shall make such revisions of the proposals as are reasonably practicable towards securing that the proposals (as so revised) satisfy those requirements.
- (7) Where the proposals formulated under subsection (2) above are revised under subsection (6) above, subsections (3) to (6) above shall apply in relation to the proposals as so revised as they applied in relation to the proposals as originally formulated.



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- (8) The authority shall, within one month of formulating their proposals under subsection (2) above, or of revising those proposals under subsection (6) above, prepare a statement setting out—
- (a) those proposals as so formulated or so revised;
  - (b) the estimates made by them under subsection (3)(b) above on the basis of which those proposals were so formulated or so revised; and
  - (c) such other particulars relating to those proposals and estimates as the Secretary of State may direct;
- and a direction under paragraph (c) above may specify the manner in which the particulars are to be set out in the statement.
- (9) The authority shall, until the end of the year next following the relevant year, keep copies of the statement which is for the time being the latest statement prepared by them under subsection (8) above 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, that statement when so made available.

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

C94 S. 76 modified (28.11.1994) by S.I. 1994/2825, reg. 39

**77 Power to keep Housing Repairs Account.**

- (1) A local housing authority who are required to keep a Housing Revenue Account may also keep, in accordance with proper practices, an account called the “Housing Repairs Account”.
- (2) An authority who keep a Housing Repairs Account shall carry to the credit of the account for any year—
  - (a) sums transferred for the year from their Housing Revenue Account; and
  - (b) sums receivable by the authority for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account (either from their tenants or from the sale of scrapped or salvaged materials).
- (3) The authority shall carry to the debit of the account for any year—
  - (a) all expenditure incurred by them for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account;
  - (b) such expenditure incurred by them for the year in connection with the improvement or replacement of houses or other property within their Housing Revenue Account as may from time to time be determined by the Secretary of State; and
  - (c) sums transferred for the year to the Housing Revenue Account in accordance with subsection (5) below.
- (4) The authority shall secure that sufficient credits are carried to the account to secure that no debit balance is shown in the account for any year.
- (5) The authority may carry some or all of any credit balance in the account for any year to the credit of their Housing Revenue Account.

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- (6) So much of any credit balance shown in an authority's Housing Repairs Account at the end of the year beginning 1st April 1989 as is not carried to the credit of their Housing Revenue Account for that year shall be carried forward and credited to some other revenue account of theirs for the year beginning 1st April 1990.

## **78 Directions to secure proper accounting.**

The Secretary of State may give directions as to the accounting practices (whether actual or prospective) which are to be followed by a local housing authority in the keeping of their Housing Revenue Account or Housing Repairs Account.

### **[<sup>F206</sup>78A Directions as to treatment of service charges, &c.**

- (1) The Secretary of State may give directions as to what items or amounts are to be regarded as referable to property within a local housing authority's Housing Revenue Account where one or more parts of a building have been disposed of but the common parts remain property within that account.
- (2) Any such direction also has effect for the purposes of any Housing Repairs Account kept by the authority.
- (3) Directions under this section may give the authority a discretion as to whether items or amounts are accounted for in the Housing Revenue Account or any Housing Repairs Account or in another revenue account.
- (4) In this section "common parts" includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more parts of the building.]

#### **Textual Amendments**

**F206** S. 78A inserted (1.10.1996 with effect as mentioned in [Sch. 18 para. 4\(2\)](#) of the amending Act) by 1996 c. 52, s. 222, [Sch. 18 para. 4\(1\)](#); S.I. 1996/2402, [art. 3](#) (subject to transitional provisions in [Sch.](#))

### **[<sup>F207</sup>78B Directions as to accounting for work subject to competitive tendering.**

- (1) This section applies where work is carried out by a local housing authority which has successfully bid for the work on a competitive basis.
- (2) The Secretary of State may give directions—
  - (a) to secure that the amount debited to the Housing Revenue Account or any Housing Repairs Account of the authority in respect of the work reflects the amount of the authority's successful bid for the work rather than expenditure actually incurred;
  - (b) allowing an authority to credit to its Housing Revenue Account any surpluses reasonably attributable to work undertaken on or in connection with property within that account.
- (3) Directions under subsection (2)(a) may make provision for determining the amount to be treated as the amount of the authority's successful bid.

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References in this Part to expenditure shall be construed as references to the amount falling to be debited in accordance with the directions.

- (4) Directions under subsection (2)(b) may make provision as to the ascertainment of the surpluses referred to and the circumstances in which a surplus is or is not to be taken to be attributable to property within an authority's Housing Revenue Account.]

#### Textual Amendments

**F207** S. 78B inserted (1.10.1996 with effect as mentioned in [Sch. 18 para. 4\(2\)](#) of the amending Act) by [1996 c. 52, s. 222, Sch. 18 para. 4\(1\)](#); [S.I. 1996/2402, art. 3](#) (subject to transitional provisions in [Sch.](#))

### *Housing subsidies*

#### **79 Housing Revenue Account subsidy.**

- (1) Housing Revenue Account subsidy shall be payable for each year to local housing authorities.
- (2) [<sup>F208</sup>Housing Revenue Account subsidy shall be paid by the appropriate person—
- (a) in such instalments, at such times and in such manner, and
  - (b) subject to such conditions as to claims, records, certificates, supply of Housing Revenue Account business plans, audit or otherwise,
- as the appropriate person may determine.]
- (3) Sections 421 to 427A of the <sup>M86</sup>Housing Act 1985 (which are superseded, in their application to local housing authorities, by this section and sections 80 and 86 below) shall cease to apply in relation to such authorities.

#### Textual Amendments

**F208** S. 79(2) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 89\(1\), 128\(6\)](#); [S.I. 2003/2938, art. 3\(a\)](#) (with [art. 8, Sch.](#)); [S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)

#### Marginal Citations

**M86** [1985 c. 68.](#)

#### **80 Calculation of Housing Revenue Account subsidy.**

- (1) [<sup>F209</sup>The amount of Housing Revenue Account subsidy (if any) payable to a local housing authority for a year shall be calculated in such manner as the appropriate person may from time to time determine.
- (1A) A determination under subsection (1) above may (in particular)—
- (a) provide for all or part of the amount to be calculated in accordance with a formula or formulae;
  - (b) provide for the amount, or part of the amount, to be calculated by reference to—

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- (i) whether any Housing Revenue Account business plan that the authority are required to prepare by any time has been supplied to the appropriate person or has been supplied to the appropriate person by that time;
  - (ii) the appropriate person's assessment of any Housing Revenue Account business plan prepared by the authority and supplied to the appropriate person;
  - (iii) whether conditions are met that relate to, or to the authority's conduct of, the authority's finances or any aspect of those finances;
  - (iv) an assessment of the state of, or of the authority's conduct of, the authority's finances or any aspect of those finances;
  - (v) whether conditions are met that relate to housing provided by the authority, to housing functions of the authority or to the authority's performance in exercising such functions;
  - (vi) an assessment of, or of the state of, housing provided by the authority;
  - (vii) an assessment of the authority's performance in exercising functions in relation to housing provided by the authority or in otherwise exercising housing functions;
  - (viii) whether, as respects housing provided by the authority, management functions exercisable in relation to that housing have been entrusted to a company;
  - (ix) whether, where such functions have been entrusted to a company, conditions are met that relate to the performance of the company in exercising the functions;
  - (x) an assessment, where such functions have been entrusted to a company, of the performance of the company in exercising those functions;
  - (xi) assumptions as to any matter;
- (c) have the effect that the amount, or part of the amount, is nil or a negative amount;
  - (d) make different provision for different parts of the amount.]

<sup>F210</sup>(2) .....

- (3) In determining a formula for the purposes of this section for any year, [<sup>F211</sup>the appropriate person may (in particular)] include variables framed (in whatever way he considers appropriate) by reference to—
  - (a) any amounts which fall to be or were credited or debited to the authority's Housing Revenue Account for that year or any previous year;
  - (b) any amounts which, on such assumptions as the [<sup>F212</sup>appropriate person] may determine (whether or not borne out or likely to be borne out by events), would fall to be or would have been so credited or debited; and
  - (c) such other matters relating to the authority, or to (or to tenants of) houses and other property which are or have been within the account, as he thinks fit;

<sup>F213</sup> ...

- (4) Without prejudice to the generality of subsection (3) above, a formula may require it to be assumed that the amount for any year of the rental income or housing expenditure of each authority (or each authority in England or in Wales) is to be determined—
  - (a) by taking the amount which the [<sup>F214</sup>appropriate person] considers (having regard, amongst other things, to past and expected movements in incomes,

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costs and prices) should be or should have been the aggregate amount for that year of the rental incomes or, as the case may be, the housing expenditure of all of the authorities (or all of the authorities in England or Wales) taken together; and

- (b) by apportioning that amount between them in such manner as the [<sup>F214</sup>appropriate person] considers appropriate (which may involve, if he thinks fit, inferring the aggregate values of the houses and other property within their respective Housing Revenue Accounts from the average values of any of the houses and other property which they have disposed of);

and in this subsection “rental income” means income falling within item 1 of Part I of Schedule 4 to this Act and “housing expenditure” means expenditure falling within item 1 of Part II of that Schedule or falling to be debited to the authorities’ Housing Repairs Accounts.

[<sup>F215</sup>(5) Nothing in subsections (1A) to (4) above is to be taken as limiting the appropriate person’s discretion under subsection (1) above.

- (6) The appropriate person may make a determination under subsection (1) above, or a calculation under such a determination, on the basis of information received by him on or before such date as he thinks fit.]

#### Textual Amendments

- F209** S. 80(1)(1A) substituted for s. 80(1) (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(2)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F210** S. 80(2) repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004, and 1.4.2004 for E.) by [Local Government Act 2003 \(c. 26\)](#), **ss. 90(2)**, 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 7(a)(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F211** Words in s. 80(3) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(3)(a)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F212** Words in s. 80(3)(b) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(4)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F213** Words in s. 80(3) repealed (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(3)(b)**, 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 3(a)(i)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F214** Words in s. 80(4) substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(4)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F215** S. 80(5)(6) inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), **ss. 89(5)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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

- C95** S. 80: power to restrict conferred (1.12.1998) by 1998 c. 38, s. 22(5), **Sch. 3 Pt. II para. 8** (with **ss. 139(2)**, 143(2)); S.I. 1998/2789, **art. 2**

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## [<sup>F216</sup>80B Agreements to exclude certain authorities or property

- (1) Subsection (2) applies if an agreement is in force between the appropriate person and a local housing authority for sections 79 to 80A not to apply in relation to—
  - (a) the authority; or
  - (b) specified property, or specified descriptions of property, of the authority.
- (2) Sections 79 to 80A do not apply in relation to the authority or (as the case may be) property for each year provided for in the agreement.
- (3) Such an agreement may, in particular, contain terms and conditions about—
  - (a) the period of years for which sections 79 to 80A are not to apply (whether a fixed or indefinite period);
  - (b) payments to the authority by the appropriate person or by the authority to the appropriate person;
  - (c) the levels of rent for specified property or specified descriptions of property (in the case of an agreement of the kind mentioned in subsection (1)(b));
  - (d) the provision of information;
  - (e) the variation or termination of the agreement (whether on the occurrence of particular events, at the discretion of the appropriate person or otherwise).
- (4) The appropriate person may give directions about supplementary, incidental, consequential or transitional matters relating to the variation or termination of an agreement of the kind mentioned in subsection (1).
- (5) Such directions may not override any provision made on the subject by the agreement unless the directions are given with the consent of the local housing authority concerned.
- (6) The provision made by the directions or the agreement may, in particular, include transitional provision about the terms and conditions on which the authority or (as the case may be) property is to become subject to sections 79 to 80A after the termination of the agreement.
- (7) This section does not restrict the circumstances in which Housing Revenue Account subsidy is otherwise not payable to a local housing authority, or in respect of particular property, by virtue of this Part.
- (8) In this section—

“property” means land, houses, dwellings, buildings or property of a kind falling within paragraphs (a) to (f) of section 74(1) (property within the Housing Revenue Account); and includes future property;

“specified”, in relation to an agreement, means specified in the agreement.]

### Textual Amendments

**F216** S. 80B inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 313(1), 325(2)(a)**

## [<sup>F217</sup>80ZA Negative amounts of subsidy payable to appropriate person

- (1) If calculation in accordance with a determination under section 80(1) above of the amount of Housing Revenue Account subsidy payable to a local housing authority for a year produces a negative amount—

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- (a) the authority shall for that year debit the equivalent positive amount to their Housing Revenue Account, and
  - (b) pay that equivalent amount to the appropriate person.
- (2) Amounts payable to the appropriate person under subsection (1)(b) above shall be paid to him in such instalments, at such times and in such manner as he may determine.
  - (3) A payment in respect of an amount payable under subsection (1)(b) above shall be accompanied by such information as the appropriate person may require.
  - (4) The appropriate person may charge a local housing authority interest, at such rates and for such periods as he may determine, on any sum payable to him under subsection (1)(b) above that is not paid by such time as may be determined under subsection (2) above for its payment.
  - (5) The appropriate person may charge a local housing authority an amount equal to any additional costs incurred by him as a result of any sum payable to him under subsection (1)(b) above not being paid by such time as may be determined under subsection (2) above for its payment.]

#### Textual Amendments

**F217** S. 80ZA inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\), ss. 90\(1\), 128\(6\); S.I. 2003/2938, art. 3\(a\) \(with art. 8, Sch.\); S.I. 2003/3034, art. 2, Sch. 1 Pt. I](#)

#### [<sup>F218</sup>**80A Final decision on amount of Housing Revenue Account subsidy.**

- (1) The Secretary of State shall, as soon as he thinks fit after the end of the year, make a final decision as to the amount (if any) of Housing Revenue Account subsidy payable to a local housing authority for that year and notify the authority in writing of his decision.
- [ Notification in writing of a decision under this section is to be taken as given to a local
- <sup>F219</sup>(1A) housing authority where notice of the decision is sent using electronic communications to such address as may for the time being be notified by that authority to the Secretary of State for that purpose.
- <sup>F219</sup>(1B) Notification in writing of a decision under this section is also to be treated as given to a local housing authority where—
- (a) the Secretary of State and that authority have agreed that notifications of decisions under this section required to be given in writing to that authority may instead be accessed by that authority on a web site;
  - (b) the decision is a decision to which that agreement applies;
  - (c) the Secretary of State has published the decision on a web site;
  - (d) that authority is notified, in a manner for the time being agreed for the purpose between it and the Secretary of State, of—
    - (i) the publication of the decision on a web site;
    - (ii) the address of that web site; and
    - (iii) the place on that web site where the notice may be accessed, and how it may be accessed.



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- <sup>F219</sup>(1C) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (1A) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.
- <sup>F219</sup>(1D) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (1B) above may revoke the agreement, and such a revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.]
- (2) Once notified to the authority the decision is conclusive as to the amount (if any) payable by way of subsidy and shall not be questioned in any legal proceedings.
- (3) Where the amount of Housing Revenue Account subsidy paid to an authority is less than the amount finally decided, the authority is entitled to be paid the balance.
- (4) Where Housing Revenue Account subsidy has been paid to an authority in excess of the amount finally decided, the Secretary of State may recover the excess, with interest from such time and at such rates as he thinks fit.
- [<sup>F220</sup>(4A) Without prejudice to other methods of recovery, a sum recoverable under subsection (4) above may—
- (a) be recovered by withholding or reducing subsidy, and
- (b) if the sum is referable to housing benefit in respect of houses or other property within the authority’s Housing Revenue Account, be recovered by withholding or reducing rent rebate subsidy under Part 8 of the Social Security Administration Act 1992.]
- (5) Nothing in this section affects any power of the Secretary of State to vary a determination as to the amount of subsidy before the final decision is made.]

**Textual Amendments**

**F218** S. 80A inserted (1.10.1996 with effect as mentioned in [Sch. 18 para. 5\(2\)](#) of the amending Act) by [1996 c. 52, s. 222](#), [Sch. 18 para. 5\(1\)](#); [S.I. 1996/2402, art. 3](#)

**F219** S. 80A(1A)-(1D) inserted (E.) (10.12.2000) by [S.I. 2000/3056, art. 2](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605, art. 2\(2\)](#)

**F220** S. 80A(4A) substituted for words (18.11.2003) by [Local Government Act 2003 \(c. 26\), s. 128\(3\)\(e\)](#), [Sch. 7 para. 31](#); [S.I. 2003/2938, art. 2\(a\)](#) (with [art. 8, Sch.](#))

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

**C96** S. 80A extended (W.) (1.4.2001) by [S.I. 2001/605, art. 2\(1\)](#), [Sch.](#)



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### Textual Amendments

**F221** S. 81 repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), s. 3, [Sch.1](#)

## 82 Residual debt subsidy for year 1989–90.

- (1) Where, in the case of any local housing authorities to whom no housing subsidy is payable for the year beginning 1st April 1989, houses or other property within their respective Housing Revenue Accounts—
  - (a) are disposed of in that year, or
  - (b) are in that year the subject of such other transactions as the Secretary of State may determine,
 residual debt subsidy shall be payable for that year to those authorities in respect of costs relating to the houses or other property.
- (2) Residual debt subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.
- (3) Payment of residual debt subsidy shall be subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.
- (4) Residual debt subsidy paid to a local housing authority shall be credited to the authority's Housing Revenue Account and, accordingly, for the year beginning 1st April 1989 the reference to housing subsidy in item 3 in Part I of Schedule 14 to the <sup>M87</sup>Housing Act 1985 shall be taken to include a reference to residual debt subsidy.

### Marginal Citations

**M87** 1985 c. 68.

## 83 Calculation of residual debt subsidy.

- (1) The amount of the residual debt subsidy (if any) payable to a local housing authority shall be calculated—
  - (a) in accordance with such formulae as the Secretary of State may from time to time determine; and
  - (b) by reference to such houses or other property as the Secretary of State may for the time being determine.
- (2) A determination of the Secretary of State under this section may relate to disposals or other transactions which occur before the making of the determination.

## 84 Adjustment of housing subsidy for year 1989-90.

- (1) In any case where, apart from this subsection and subsection (2) below, the amount of housing subsidy payable to a local housing authority for the year beginning 1st April 1989 would be reduced or extinguished as a result of the transfer from the authority to a housing action trust of housing, land or other property as mentioned in section 74 of the <sup>M88</sup>Housing Act 1988, the Secretary of State, in the exercise of his power under

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section 423(2) of the Housing Act 1985, may adjust the authority's base amount for that year to take account of the effect of that transfer.

- (2) If, in accordance with subsection (1) above, the Secretary of State can make an adjustment of a local housing authority's base amount for the year beginning 1st April 1989 to take account of a transfer of housing, land or other property to a housing action trust, he may, instead of or as well as making such an adjustment, take account of the effect of the transfer in the making or varying of any determination for that year under section 424 (housing costs differential) or in the making of any determination under section 425 (local contribution differential) of the Housing Act 1985.
- (3) Subsections (1) and (2) above shall be deemed to have been in force so as to be applicable for the year beginning 1st April 1989.

#### Marginal Citations

M88 1988 c. 50.

### Supplementary

#### 85 Power to obtain information.

- (1) A local housing authority, and any officer or employee of a local housing authority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to exercise his functions under section 80 or 83 above.
- (2) A local housing authority shall supply the Secretary of State with such certificates supporting the information required by him as he may specify.
- (3) If a local housing authority, or any officer or employee of a local housing authority concerned with their housing functions, fails to comply with subsection (1) or (2) above before the end of such period as the Secretary of State may specify, he may exercise his functions under section 80 or 83 above on the basis of such assumptions and estimates as he sees fit.

#### 86 Recoupment of subsidy in certain cases.

- (1) Where Housing Revenue Account subsidy or residual debt subsidy has been paid to a local housing authority and it appears to the Secretary of State that the case falls within rules published by him, he may recover from the authority [<sup>F222</sup>any or <sup>F223</sup> . . . other authority which subsequently exercises the functions of a local housing authority for any part of the same area] the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates as he may so determine.
- (2) Without prejudice to other methods of recovery, a sum recoverable under this section may be recovered by withholding or reducing subsidy.

#### Textual Amendments

F222 Words in s. 86(1) inserted (28.11.1994) by S.I. 1994/2825, reg. 10

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**F223** Words in s. 86(1) omitted (1.4.1996) by virtue of S.I. 1996/619, art. 10

## 87 Determinations and directions.

- (1) A determination made or direction given by the Secretary of State under this Part—
  - (a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housing authorities;
  - (b) may be made before, during or after the end of the year to which it relates; and
  - (c) may be varied or revoked by a subsequent determination or direction.
- (2) Before making a determination or giving a direction under this Part relating to all local housing authorities or any description of such authorities, the Secretary of State shall consult such representatives of local government and relevant professional bodies as appear to him to be appropriate; and, before making a determination or giving a direction relating to a particular local housing authority, he shall consult that authority.
- (3) As soon as practicable after making a determination under this Part, the Secretary of State shall send a copy of the determination to the local housing authority or authorities to which it relates.
- <sup>F224</sup>(4) References in this section to sending to a local housing authority a copy of a determination under this Part include references to using electronic communications for sending a copy of a determination to such address as may for the time being be notified to the Secretary of State by that authority for that purpose.
- <sup>F225</sup>(5) For the purposes of this section a copy of a determination under this Part is also to be treated as sent to a local housing authority where—
  - (a) the Secretary of State and that authority have agreed to the authority instead having access to determinations on a web site;
  - (b) the determination is a determination to which that agreement applies;
  - (c) the Secretary of State has published the determination on a web site;
  - (d) that authority is notified, in a manner for the time being agreed for the purpose between that authority and the Secretary of State, of—
    - (i) the publication of the determination on a web site;
    - (ii) the address of that web site; and
    - (iii) the place on that web site where the determination may be accessed, and how it may be accessed.
- <sup>F226</sup>(6) A local housing authority which is no longer willing to accept electronic communications for the sending of copies of determinations under this Part, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (4) above and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.
- <sup>F227</sup>(7) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (5) above may revoke the agreement and such a revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.]

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#### Textual Amendments

- F224** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)
- F225** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)
- F226** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)
- F227** S. 87(4)-(7) inserted (E.) (10.12.2000) by [S.I. 2000/3056](#), [art. 3](#) and the said insertion extended to Wales (1.4.2001) by [S.I. 2001/605](#), [art. 2\(2\)](#)

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

- C97** S. 87 extended (W.) (1.4.2001) by [S.I. 2001/605](#), [art. 2\(1\)](#), [Sch.](#)

### [<sup>F228</sup>87A Orders amending Part 6

- (1) The appropriate person may by order—
- amend, repeal or re-enact provisions of sections 74 to 76 and 78 of, and Schedule 4 to, this Act;
  - provide for any such provisions—
    - not to apply, whether at all or in cases specified by the order or to authorities so specified;
    - to apply, whether generally or in cases so specified or to authorities so specified, subject to modifications so specified.
- (2) An order under this section may (in particular)—
- add items to, or remove items from, Part 1 or 2 of Schedule 4 to this Act, or vary items of those Parts;
  - confer discretions, or expand, curtail or repeal discretions conferred, on the appropriate person or any other person;
  - be made before, during or after the end of any year to which it relates.
- (3) In subsection (2)(b) above “discretion” includes power to make a determination or give a direction.
- (4) An order under this section may—
- contain such incidental, consequential, transitional or supplementary provisions (including provisions amending or repealing enactments), and such savings, as the appropriate person considers appropriate;
  - make different provision for different cases or authorities.
- (5) The power to make an order under this section is exercisable by statutory instrument.
- (6) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.]

#### Textual Amendments

- F228** S. 87A inserted (18.11.2003) by [Local Government Act 2003](#) (c. 26), [ss. 91\(1\)](#), [128\(2\)\(d\)](#)

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## 88 Construction and application of Part VI.

(1) In this Part—

(a) expressions which are used in Part XIII of the <sup>M89</sup>Housing Act 1985 (general financial provisions) have the same meaning as in that Part;

<sup>F229</sup>(aa) “the appropriate person” means—

(i) in relation to England, the Secretary of State, and

(ii) in relation to Wales, <sup>F230</sup>Welsh Ministers];

(b) references to a local housing authority’s Housing Revenue Account or Housing Repairs Account include, where the context so admits, references to the corresponding account kept by them under that Part;

(c) references to a revenue account of a local housing authority other than their Housing Revenue Account do not include references to a Housing Repairs Account; <sup>F231</sup> and]

(d) references to proper practices shall be construed in accordance with <sup>F232</sup>section 21 of the Local Government Act 2003<sup>F233</sup>; and

<sup>F234</sup>(e) “electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

<sup>F235</sup>(i) by means of <sup>F236</sup>an electronic communications network]; or

(ii) by other means but while in an electronic form;

<sup>F237</sup>(f) “address”, in relation to electronic communications, includes any number or address used for the purposes of such communications.]

(2) Sections 82 to 84 above and, so far as relating to those sections or residual debt subsidy, this section and sections 85 to 87 above, have effect for the year beginning on 1st April 1989.

(3) Subject to subsection (2) above, this Part has effect for years beginning on or after 1st April 1990.

(4) If, before the passing of this Act, any statement was made by or on behalf of the Secretary of State—

(a) that, if this Part were then in force, he would make, under section 83 above, such a determination as is set out in the statement, and

(b) that, when this Act is passed, he is to be regarded as having made under that section the determination set out in the statement,

the determination set out in the statement shall have effect as if it had been validly made under section 83 above at the time of the statement.

(5) Any consultation undertaken—

(a) before the passing of this Act, and

(b) before the making of such a statement as is referred to in subsection (4) above, and

(c) in connection with a determination proposed to be set out in the statement,

shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.

(6) Any consultation undertaken before the passing of this Act in connection with a determination proposed to be made under this Part shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.

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### Textual Amendments

- F229** S. 88(1)(aa) inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by **Local Government Act 2003 (c. 26), ss. 89(6), 128(6); S.I. 2003/2938, art. 3(a)** (with **art. 8, Sch.**); **S.I. 2003/3034, art. 2, Sch. 1 Pt. I**
- F230** Words in s. 88(1)(aa)(ii) substituted (22.9.2008) by **Housing and Regeneration Act 2008 (c. 17), ss. 313(2), 325(2)(a)**
- F231** Word in s. 88(1)(c) deleted (E.) (10.12.2000) by virtue of **S.I. 2000/3056, art. 4(a)**
- F232** Words in s. 88(1)(d) substituted (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004, and 1.4.2004 for E.) by **Local Government Act 2003 (c. 26), s. 128(6), Sch. 7 para. 32; S.I. 2003/2938, art. 7(a)** (with **art. 8, Sch.**); **S.I. 2003/3034, art. 2, Sch. 1 Pt. I**
- F233** Word in s. 88(1)(c) deleted (E.) (10.12.2000) by virtue of **S.I. 2000/3056, art. 4(a)**
- F234** S. 88(1)(e)(f) and the preceding "and" inserted (E.) (10.12.2000) by **S.I. 2000/3056, art. 4(b)** and the said insertion extended to Wales (1.4.2001) by **S.I. 2001/605, art. 2(2)**
- F235** 1984 c. 12.
- F236** Words in s. 88(1)(e)(i) substituted (25.7.2003 for specified purposes, 29.12.2003 in so far as not already in force) by **Communications Act 2003 (c. 21), s. 411(2), Sch. 17 para. 100** (with **Sch. 18**); **S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1** (with **art. 3**) (as amended by **S.I. 2003/3142, art. 1(3)**); **S.I. 2003/3142, art. 3(2)** (with **art. 11**)
- F237** S. 88(1)(e)(f) and the preceding "and" inserted (E.) (10.12.2000) by **S.I. 2000/3056, art. 4(b)** and the said insertion extended to Wales (1.4.2001) by **S.I. 2001/605, art. 2(2)**

### Marginal Citations

- M89** 1985 c. 68.

## PART VII

### RENEWAL AREAS

### Modifications etc. (not altering text)

- C98** Pt. VII (ss. 89-100) amended (24.9.1996) by **1996 c. 52, ss. 221, 232(2)**

## 89 Declaration of renewal area.

- (1) Where a local housing authority, upon consideration of [<sup>F238</sup>a report containing particulars of the matters] mentioned in subsection (3) below and of any other matters which the authority consider relevant, are satisfied—
- (a) that the living conditions in an area within their district consisting primarily of housing accommodation are unsatisfactory, and
  - (b) that those conditions can most effectively be dealt with by declaring the area to be a renewal area,

then, subject to the following provisions of this Part, they may cause the area to be defined on a map and by resolution declare it to be a renewal area [<sup>F239</sup>for the period specified in the declaration].

- (2) <sup>F240</sup>.....

[<sup>F241</sup>(3) The matters referred to in subsection (1) above are—

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- (a) the living conditions in the area concerned;
  - (b) the ways in which those conditions may be improved (whether by the declaration of a renewal area or otherwise);
  - (c) the powers available to the authority (including powers available apart from this Act) if the area is declared to be a renewal area;
  - (d) the authority's detailed proposals for the exercise of those powers during the period that the area will be a renewal area (if so declared);
  - (e) the cost of those proposals;
  - (f) the financial resources available, or likely to be available, to the authority (from whatever source) for implementing those proposals; and
  - (g) the representations (if any) made to the authority in relation to those proposals,
- and the report shall contain a recommendation, with reasons, as to whether a renewal area should be declared and, if so, the period for which the area should be a renewal area.
- (4) Subject to section 95 below, an area which is declared to be a renewal area shall be such an area—
- (a) until the end of the period specified in the declaration, or
  - (b) if at any time during that period the local housing authority by resolution extend the period for which the area is to be a renewal area, until the end of the period specified in the resolution (unless further extended under this paragraph).
- (5) In considering whether—
- (a) to declare an area to be a renewal area, or
  - (b) to extend the period for which an area is to be a renewal area,
- a local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.
- (6) Before exercising their power—
- (a) to declare an area to be a renewal area, or
  - (b) to extend (or further extend) the period for which an area is to be a renewal area,
- a local housing authority shall take the steps required by subsection (7) below.
- (7) Those steps are such as appear to the authority best designed to secure—
- (a) that the detailed proposals referred to in subsection (3)(d) above or, where the authority are considering the extension of the period for which an area is to be a renewal area, such of those proposals as remain to be implemented, are brought to the attention of persons residing or owning property in the area; and
  - (b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning those proposals.
- (8) A resolution under subsection (1) or (4)(b) above has effect from the day on which it is passed and is a local land charge.]

#### Textual Amendments

**F238** Words in s. 89(1) substituted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), [Sch. 5 para. 2\(2\)\(a\)](#) (with art. 14(2))



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- F239** Words in s. 89(1) inserted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 2(2)(b)** (with art. 14(2))
- F240** S. 89(2) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15 {Sch. 5 para. 2(3)}, {Sch. 6} (with art. 14(2))
- F241** S. 89(3)-(8) substituted for s. 89(3)-(7) (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), **Sch. 5 para. 2(4)** (with art. 14(2))

## 90 Conditions for declaration of renewal area.

F242

### Textual Amendments

- F242** S. 90 repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15, **Sch. 5 para. 3**, **Sch. 6** (with art. 14(2))

## [<sup>F243</sup>91 Renewal area: steps to be taken after declaration or extension

- (1) As soon as may be after—
  - (a) declaring an area to be a renewal area; or
  - (b) extending (or further extending) the period for which an area is to be a renewal area,a local housing authority shall take the steps required by subsection (2) below.
- (2) Those steps are such as appear to the authority best designed to secure—
  - (a) that the resolution to which the declaration, or extension (or further extension) of the period, relates is brought to the attention of persons residing or owning property in the area; and
  - (b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning action to be taken with respect to the renewal area.]

### Textual Amendments

- F243** S. 91 substituted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(2)(3), 14, **Sch. 5 para. 4**

## 92 Duty to publish information.

- (1) Where a local housing authority have declared an area to be a renewal area, they shall from time to time publish, in such manner as appears to them best designed to secure that the information is brought to the attention of persons residing or owning property in the area, information with respect to—
  - (a) the action they propose to take in relation to the area,
  - (b) the action they have taken in relation to the area, and
  - (c) the assistance available for the carrying out of works in the area,being such information as appears to them best designed to further the purpose for which the area was declared a renewal area.



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(2) <sup>F244</sup> .....

**Textual Amendments**

**F244** S. 92(2) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1, 14(1), 15, [Sch. 5 para. 5](#), [Sch. 6](#) (with art. 14(2))

**93 General powers of local housing authority.**

- (1) Where a local housing authority have declared an area to be a renewal area, the authority may exercise the powers conferred by this section.
- (2) For the purpose of securing or assisting in securing all or any of the objectives mentioned in subsection (3) below, the authority may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, any land in the area on which there are premises consisting of or including housing accommodation or which forms part of the curtilage of any such premises; and the authority may provide housing accommodation on land acquired under this subsection.
- (3) The objectives referred to in subsection (2) above are—
  - (a) the improvement or repair of the premises, either by the authority or by a person to whom they propose to dispose of the premises;
  - (b) the proper and effective management and use of the housing accommodation, either by the authority or by a person to whom they propose to dispose of the premises comprising the accommodation; and
  - (c) the well-being of the persons for the time being residing in the area.
- (4) For the purpose of effecting or assisting the improvement of the amenities in the area, the authority may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, any land in the area (including land which the authority propose to dispose of to another person who intends to effect or assist the improvement of those amenities).
- (5) The authority may—
  - (a) carry out works (including works of demolition) on land owned by the authority in the area (whether or not that land was acquired under subsection(2) or subsection (4) above); <sup>F245</sup> ...
  - <sup>F245</sup>(b) .....
  - <sup>F245</sup> ....
- (6) The authority may enter into an agreement with a housing association or other person under which, in accordance with the terms of the agreement, <sup>F246</sup>... the authority’s functions under subsection (5) above are to be exercisable by that association or other person.
- (7) If after—
  - (a) the authority have entered into a contract for the acquisition of land under subsection (2) or subsection (4) above, or
  - (b) a compulsory purchase order authorising the acquisition of land under either of those subsections has been confirmed,

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the renewal area concerned ceases to be such an area or the land is excluded from the area, the provisions of the subsection in question shall continue to apply as if the land continued to be in a renewal area.

- (8) The powers conferred by this section are without prejudice to any power which a local housing authority may have under or by virtue of any other enactment.

#### Textual Amendments

**F245** S. 93(5)(b) and words repealed (19.7.2003) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(3), 13(2), [Sch. 6](#) (with art. 13(4))

**F246** Words in s. 93(6) repealed (19.7.2003) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(3), 13(3), [Sch. 6](#) (with art. 13(4))

### 94 Power to apply for orders extinguishing right to use vehicles on highway.

- (1) A local housing authority who have declared a renewal area may exercise the powers of a local planning authority under [<sup>F247</sup>sections 249 and 250 of the Town and Country Planning Act 1990] (extinguishment of right to use vehicles on certain highways) with respect to a highway in that area notwithstanding that they are not the local planning authority, but subject to the following provisions.
- (2) The local housing authority shall not make an application under [<sup>F248</sup>subsection (2) or subsection (6) of section 249] (application to Secretary of State to make or revoke order extinguishing right to use vehicles) except with the consent of the local planning authority.
- (3) If the local housing authority are not also the highway authority, any such application made by them shall in the first place be sent to the highway authority who shall transmit it to the Secretary of State.
- (4) Where an order under [<sup>F249</sup>subsection (2) of section 249] (order extinguishing right to use vehicles) has been made on an application made by a local housing authority by virtue of this section, any compensation under [<sup>F249</sup>subsection (1) of section 250] (compensation for loss of access to highway) is payable by them instead of by the local planning authority.

#### Textual Amendments

**F247** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, [Sch. 2 para. 84\(a\)](#)

**F248** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, [Sch. 2 para. 84\(b\)](#)

**F249** Words substituted by [Planning \(Consequential Provisions\) Act 1990 \(c. 11, SIF 123: 1, 2\)](#), s. 4, [Sch. 2 para. 84\(c\)](#)

### 95 Exclusion of land from, or termination of, renewal area.

- (1) Subject to subsection (2) below, a local housing authority may by resolution—
- exclude land from a renewal area; or
  - declare that an area shall cease to be a renewal area;

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and as soon as may be after passing such a resolution the authority shall take the steps required by [F250 subsection (5)] below.

- [F251(2) Before exercising any power under subsection (1) above, an authority shall take such steps as appear to the authority best designed to secure—
  - (a) that the proposed exclusion or cessation, as the case may be, is brought to the attention of persons residing or owning property in the area; and
  - (b) that those persons are informed of the name and address of the person to whom should be addressed representations concerning the proposed exclusion or cessation.]
- (3) F252 .....
- (4) F252 .....
- (5) The authority shall take such F253 . . . steps as appear to them best designed to secure that the resolution is brought to the attention of persons residing or owning property in the renewal area.
- (6) A resolution under subsection (1) above has effect from the day on which it is passed.
- (7) A resolution under subsection (1) above does not affect the continued operation of the provisions of this Part, or any other enactment relating to renewal areas, in relation to works begun before the date on which the exclusion or cessation takes effect; but the resolution does have effect with respect to works which have not been begun before that date, notwithstanding that expenditure in respect of the works has been approved before that date.

**Textual Amendments**

**F250** Words in s. 95(1) substituted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 6(2)** (with art. 14(2))

**F251** S. 95(2) substituted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 6(3)** (with art. 14(2))

**F252** S. 95(3)(4) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 6(4), Sch. 6** (with art. 14(2))

**F253** Word in s. 95(5) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 6(5), Sch. 6** (with art. 14(2))

**96 Contributions by the Secretary of State.**

- (1) The Secretary of State may pay contributions to local housing authorities towards such expenditure incurred by them under this Part as he may determine.
- (2) The rate or rates of the contributions, the calculation of the expenditure to which they relate and the manner of their payment shall be such as may be determined by the Secretary of State with the consent of the Treasury; and any determination under this subsection or subsection (1) above may be made generally, or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area.
- (3) Contributions under this section shall be payable subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

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- (4) If, before the declaration of a renewal area, a local housing authority are satisfied that the rate of contributions which, in accordance with a determination under subsection (2) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for contributions at a higher rate in respect of that area.
- (5) An application under subsection (4) above shall be made in such form and shall contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.
- (6) If an application under subsection (4) above is approved, the Secretary of State may pay contributions under subsection (1) above in respect of the area concerned at such higher rate as he may determine under subsection (2) above.

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

C99 S. 96 amended (28.11.1994) by S.I. 1994/2825, reg. 54

**97 Powers of entry and penalty for obstruction.**

- (1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving not less than seven days' notice of his intention to the occupier, and to the owner if the owner is known, enter premises—
  - (a) for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised; or
  - (b) for the purpose of survey or valuation where the authority are authorised by this Part to acquire the premises compulsorily.
- (2) An authorisation for the purposes of this section—
  - (a) shall be in writing stating the particular purpose or purposes for which the entry is authorised; and
  - (b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.
- (3) It is a summary offence intentionally to obstruct an officer of the local housing authority or of the Secretary of State, or a person authorised to enter premises under subsection (1) above, in the performance of anything which that officer, authority or person is by this Part required or authorised to do.
- (4) A person who commits an offence under subsection (3) above is liable on conviction to a fine not exceeding level 3 on the standard scale.
- (5) In this section “owner”, in relation to premises,—
  - (a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and
  - (b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

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## 98 Part VIII of Housing Act 1985.

- (1) The provisions of this Part have effect in place of Part VIII of the <sup>M90</sup>Housing Act 1985 (housing action areas and general improvement areas) and, accordingly, after the appointed day, a local housing authority shall no longer have power under that Part to declare an area a housing action area or a general improvement area.
- (2) If, apart from this subsection, a general improvement area would remain in existence on the first anniversary of the appointed day, the area shall, by virtue of this section cease to be a general improvement area on that first anniversary.
- (3) In any case where, immediately before the appointed day, the period for which a housing action area has effect exceeds two years, the duration of that area shall, by virtue of this section, be such that, subject to subsection (4) below, it ends on the first anniversary of the appointed day.
- (4) Nothing in subsection (3) above affects the power of a local housing authority,—
  - (a) by resolution under section 250(1)(b) of the Housing Act 1985, to bring a housing action area to an end; or
  - (b) by resolution under section 251 of that Act, to extend, on one occasion only, the duration of a housing action area by a period of two years.
- (5) In the application of section 245 of the Housing Act 1985 (contributions by Secretary of State towards expenditure of local housing authorities relating to environmental works in housing action areas) in relation to expenditure—
  - (a) which was incurred on or after 14th June 1989, and
  - (b) in respect of which no contribution under that section was paid before the appointed day,
 for subsection (2) of that section there shall be substituted the following subsection—
 

“(2) In the case of any expenditure, the contribution—

  - (a) shall be equal to one-half of the amount of the expenditure; and
  - (b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.”
- (6) In the application of section 259 of the Housing Act 1985 (contributions by Secretary of State towards expenditure of local housing authorities relating to general improvement areas) in relation to expenditure—
  - (a) which was incurred on or after 14th June 1989, and
  - (b) in respect of which no contribution under that section was paid before the appointed day,
 for subsection (2) of that section there shall be substituted the following subsection—
 

“(2) In the case of any expenditure, the contribution—

  - (a) shall be equal to one-half of the amount of the expenditure; and
  - (b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine.”
- (7) In the preceding provisions of this section “the appointed day” means the day appointed for the coming into force of this section.

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#### Marginal Citations

**M90** 1985 c. 68.

### 99 Directions and guidance.

Any power under this Part to give <sup>F254</sup> . . . guidance may be so exercised as to make different provision for different cases, different descriptions of cases and different areas and, in particular, with respect to different local housing authorities or descriptions of authority (including a description framed by reference to authorities in a particular area).

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#### Textual Amendments

**F254** Words in s. 99 repealed (19.7.2002) by *The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002* (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 7**, **Sch. 6** (with art. 14(2))

### 100 Interpretation of Part VII.

(1) In this Part, except where the context otherwise requires,—

“dwelling” means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with it;

[<sup>F255</sup>“house in multiple occupation” means a house in multiple occupation as defined by sections 254 to 259 of the Housing Act 2004, as they have effect for the purposes of Part 1 of that Act (that is, without the exclusions contained in Schedule 14 to that Act), but does not include any part of such a house which is occupied as a separate dwelling by persons who form a single household;]

“housing accommodation” means dwellings, houses in multiple occupation and hostels;

“local housing authority” and any reference to the district of such an authority shall be construed in accordance with sections 1 and 2 of the Housing Act 1985.

(2) Part XVII of the Housing Act 1985 (compulsory purchase and land compensation) applies in relation to this Part as if it were contained in that Act.

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#### Textual Amendments

**F255** Words in s. 100 substituted (6.4.2006 for E., 16.6.2006 for W.) by *Housing Act 2004* (c. 34), s. 270(4)(5)(f), **Sch. 15 para. 34**; S.I. 2006/1060, art. 2(1)(d) (with Sch.); S.I. 2006/1535, art. 2(b) (with Sch.)

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## <sup>F256</sup>PART VIII

### Textual Amendments

**F256** Pt. VIII (ss. 101-138) repealed (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (with transitional provisions in **arts. 5, 8**)

### Modifications etc. (not altering text)

**C100** Pt. VIII (ss. 101-138) excluded (17.12.1996) by 1996 c. 53, **s. 102(1)(2)**; S.I. 1996/2842, **art. 3**

### *Introductory*

### *Preliminary conditions*

### *Restrictions on grant aid*

### *Approvals, notification and payment*

### *Conditions of grants and repayments*

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### *Group repair schemes*

### *Minor works*

### *Supplementary provisions*

## **PART IX**

### **MISCELLANEOUS AND GENERAL**

#### *Local Government Finance Act 1988, local finance (Scotland) and block grants*

#### **139 Local Government Finance Act 1988: amendments.**

Schedule 5 to this Act (which amends the <sup>M113</sup>Local Government Finance Act 1988) shall have effect.

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#### **Marginal Citations**

**M113** 1988 c. 41.



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**F270 140 F270 Scottish non-domestic rates: interim provisions.**

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**Textual Amendments**  
**F270** S. 140 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(d),Sch.

**F271 141 .....**

**Textual Amendments**  
**F271** S. 141 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(d),Sch.

**142 Powers to vary incidence of standard community charge: Scotland.**

In section 10 of the <sup>M114</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 (liability for and calculation of standard community charge) for subsections (6) and (7) there shall be substituted the following subsections—

- “(6) The standard community charge due to a local authority in respect of any premises in respect of any financial year shall be the product of the personal community charge determined in respect of that year by the local authority and—
  - (a) where the premises are in a specified class, the standard community charge multiplier determined in respect of that class by the authority; or
  - (b) where the premises are not in a specified class, the standard community charge multiplier determined by the authority in relation to such premises,
 in respect of that year.
- (7) A specified class is one which has been prescribed under this subsection or determined under regulations made under subsection (7F) below.
- (7A) A local authority shall determine their standard community charge multiplier or multipliers before such date in each year as is prescribed.
- (7B) A standard community charge multiplier must be one of the following, 0, ½, 1, 1½, 2.
- (7C) A local authority may resolve that different standard community charge multipliers shall apply in relation to different classes of premises prescribed under subsection (7) above.
- (7D) A standard community charge multiplier relating to a class of premises prescribed under subsection (7) above shall not exceed such maximum multiplier as may be prescribed in relation to that class.

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- (7E) In prescribing classes under subsection (7) above, the Secretary of State may classify premises by reference to such factors as he thinks fit, including, without prejudice to that generality—
- (a) the physical characteristics of premises or any part of them;
  - (b) the fact that premises are, or any part of them is, unoccupied;
  - (c) the fact that premises are, or any part of them is, occupied for prescribed purposes;
  - (d) the fact that premises are, or any part of them is, occupied by persons of prescribed descriptions;
  - (e) the circumstances of persons liable to pay the standard community charge.
- (7F) The Secretary of State may, by regulations, make provision—
- (a) enabling local authorities or local authorities of such class or classes as he may specify in the regulations—
    - (i) to determine, in relation to their areas, classes of premises additional to those prescribed under subsection (7) above;
    - (ii) to determine different such classes of premises in relation to different parts of their areas; and
    - (iii) to resolve that different standard community charge multipliers shall apply in relation to different classes of premises determined under the regulations, and
  - (b) requiring them, when determining a class or classes under the regulations, to classify premises only by reference to one or more prescribed factors being such factors as the Secretary of State thinks fit.
- (7G) Regulations under subsection (7F) above may make provision enabling the district council to resolve that different standard community charge multipliers shall apply in relation to such different classes of premises as have, in relation to the district, been determined under the regulations by the council of the region in which the district is situated.
- (7H) A regional council may resolve that different standard community charge multipliers shall apply in relation to the same specified class of premises in different districts within the region.”

**Marginal Citations**

M114 1987 c. 47.

**143 Reduced liability for personal community charges: Scotland.**

—The following section shall be inserted after section 9 of the <sup>M115</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987—

**“9A Reduced liability for personal community charge.**

- (1) The Secretary of State may make regulations as regards any case where—

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- (a) a person is or was liable to pay, in respect of any time in such financial year as is prescribed, the personal community charge determined by a local authority in respect of that year; and
  - (b) prescribed conditions are fulfilled.
- (2) Regulations under this section may provide that the amount of a person's liability in respect of personal community charge shall not be such amount as it would be apart from the regulations or, as the case may be, such amount as it was, but instead such smaller amount as is arrived at in accordance with prescribed rules.
- (3) The conditions mentioned in subsection (1) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the following—
- (a) rates for a period before 1 April 1989;
  - (b) the circumstances of or other matters relating to the person concerned;
  - (c) an amount relating to the local authority concerned and specified, or to be specified, for the purposes of the regulations in a report laid, or to be laid, before the House of Commons;
  - (d) such other amounts as may be prescribed or arrived at in a prescribed manner;
  - (e) the making of an application by the person concerned.
- (4) The rules mentioned in subsection (2) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the factors mentioned in subsection (3)(a) to (d) above.
- (5) Without prejudice to the generality of section 31(2) of this Act, regulations under this section may include—
- (a) provision requiring the Secretary of State to specify in a report, for the purposes of the regulations, an amount in relation to each local authority;
  - (b) provision requiring him to lay the report before the House of Commons;
  - (c) provision for the review of any prescribed decision of a local authority relating to the application or operation of the regulations.
- (6) To the extent that he would not have power to do so apart from this subsection, the Secretary of State may—
- (a) include in regulations under this section such amendments of any social security instrument as he thinks expedient in consequence of the regulations under this section;
  - (b) include in any social security instrument such provision as he thinks expedient in consequence of regulations under this section.
- and any such amendments or provision may be deemed by the regulations or, as the case may be, instrument to have come into effect prior to the date of coming into force of the regulations or instrument.
- (7) In subsection (6) above “social security instrument” means an order or regulations made, or falling to be made, by the Secretary of State under the Social Security Act 1986.”

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**Marginal Citations**

M115 1987 c. 47.

**144 Community charge grants: Scotland.**

The following section shall be inserted after section 23 of the <sup>M116</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987—

**“PART IIIA**

**COMMUNITY CHARGE GRANTS**

**23A Community charge grants.**

- (1) If regulations under section 9A have effect in respect of a financial year, the Secretary of State may, with the consent of the Treasury, pay a grant to a local authority in respect of that year.
- (2) The amount of the grant shall be such as the Secretary of State may, with the consent of the Treasury, determine.
- (3) A grant under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may, with the consent of the Treasury, determine.
- (4) In making any payment of grant under this section the Secretary of State may impose such conditions as he may, with the consent of the Treasury, determine; and the conditions may relate to the repayment in specified circumstances of all or part of the amount paid, or otherwise.
- (5) In deciding whether to pay a grant under this section, and in determining the amount of any such grant, the Secretary of State shall have regard to his estimate of the aggregate of—
  - (c) any amount which, in consequence of the regulations, the local authority might reasonably be expected to lose, or to have lost, by way of payments in respect of community charges in respect of the financial year concerned; and
  - (d) any administrative expenses the local authority might reasonably be expected to incur, or to have incurred, in respect of the financial year in giving effect to the regulations.”

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**Marginal Citations**

M116 1987c. 47.

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**145 Amendment of Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments: Scotland.**

Schedule 6 to this Act (which amends the <sup>M117</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments) shall have effect.

**Marginal Citations**  
 M117 1987 c. 47.

<sup>F272</sup>**146** .....

**Textual Amendments**  
 F272 S. 146 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454 art.3 (with saving in art. 4) and subject to an amendment (28.11.1194) by S.I. 1994/2825, reg. 40

<sup>F273</sup>**147 Adjustment of block grant.**

.....

**Textual Amendments**  
 F273 S. 147 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 10 Group 2

<sup>F274</sup>**148 Rate support grant, 1985/86.**

.....

**Textual Amendments**  
 F274 S. 148 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 10 Group 2

**149 Statutory references to rating.**

- (1) In the case of a provision which is made by or under any enactment and refers to a rate or a rateable value or any other factor connected with rating, the Secretary of State may make regulations—
  - (a) providing that the reference shall instead be to some other factor (whether or not connected with rating); or
  - (b) providing for the factor to be amended (whether by limiting its operation or in any other way);
 and this section shall have effect in place of section 119 of the <sup>M118</sup>Local Government Finance Act 1988.

- (2) Regulations under this section—

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- (a) may make provision in such manner as the Secretary of State thinks fit (whether by amending provisions or otherwise);
  - (b) may provide for a factor expressed by reference to valuation, rent, a premium, the length of a lease, anything connected with rating, or any other matter whatever;
  - (c) may provide for a factor expressed by reference to a combination of matters (whether expressed in terms of a formula or otherwise);
  - (d) may provide for a factor which includes a method of adjustment (whether by reference to indexation or otherwise);
  - (e) may make provision with respect to the resolution of disputes (whether by a court or otherwise); and
  - (f) may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (3) A factor expressed by reference to rent may be by reference to ground rent, rent of premises at a market rate, rent as limited by law, or otherwise.
- (4) Nothing in this section shall be construed as limiting the power conferred by section 14 of the <sup>M119</sup>Interpretation Act 1978 to revoke, amend or vary regulations previously made under this section.
- (5) In this section “enactment” means an enactment contained in Schedule 10 to this Act, or in any other Act whether passed before or in the same Session as this Act; and for this purpose “Act” includes a private or local Act.
- (6) Without prejudice to the generality of the powers conferred by this section, section 37 of the <sup>M120</sup>Landlord and Tenant Act 1954 (which provides for compensation by reference to rateable values) shall be amended in accordance with Schedule 7 to this Act.

#### Marginal Citations

**M118** 1988 c. 41.

**M119** 1978 c. 30.

**M120** 1954 c. 56.

### *Charges by certain authorities*

#### **150 Power to allow charges.**

- (1) The Secretary of State may make regulations providing that a charge may be imposed in respect of anything—
- (a) which is done by any relevant authority or by any relevant authority of a prescribed description,
  - (b) which is prescribed or falls within a prescribed description,
  - (c) in respect of which there is no power or duty to impose a charge apart from the regulations, and
  - (d) which is not done in the course of exercising an excepted function.

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- (2) The regulations may include such provision as the Secretary of State sees fit as regards charges for which the regulations provide; and nothing in subsections (3) to (5) below or section 190(1) below is to prejudice this.
- (3) The regulations—
  - (a) may be made as regards services rendered, documents issued, or any other thing done by an authority (whether in pursuance of a power or a duty);
  - (b) may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.
- (4) Where the regulations provide that a charge may not exceed a maximum amount they may—
  - (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
  - (b) prescribe, as regards any amount, a sum or a method of calculating the amount.
- (5) The regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (6) No regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

## **151 Power to amend provisions about charges.**

- (1) Subject to subsection (4) below, this section applies in the case of an existing provision to the extent that the provision allows (as opposed to requires) a charge to be imposed in respect of anything which is done by relevant authorities (or any of them) and which is not done in the course of exercising an excepted function.
- (2) The Secretary of State may make regulations—
  - (a) repealing the provision concerned to the extent that it so provides,
  - (b) amending the provision to that extent, or
  - (c) repealing the provision to that extent and replacing it with new provisions;
 and subsection (6) of section 150 above applies in relation to regulations under this section as it applies in relation to regulations under that section.
- (3) For the purposes of subsection (1) above—
  - (a) the charge may be expressed in terms of making a charge, paying a fee, or otherwise;
  - (b) the charge may relate to services rendered, documents issued, or any other thing done by a relevant authority (whether in pursuance of a power or a duty).
- (4) A charge does not fall within subsection (1) above if—
  - (a) it is one whose proceeds fall (or part of whose proceeds falls) to be paid into the Consolidated Fund; <sup>F275</sup>or
  - (b) it is a charge amounting to local taxation.]
- (5) Regulations under subsection (2) above may not require the imposition of a charge; and subsection (6) below shall have effect subject to this.
- (6) The regulations may include such provision as the Secretary of State sees fit as regards charges; and nothing in subsections (7) to (9) below or section 190(1) below is to prejudice this.



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- (7) The regulations may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.
- (8) Where the regulations provide that a charge may not exceed a maximum amount they may—
  - (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
  - (b) prescribe, as regards any amount, a sum or a method of calculating the amount.
- (9) The regulations—
  - (a) may confer discretion as to the amount in a case where an existing provision confers none (or vice versa);
  - (b) may, in a case where an existing provision confers a discretion as to the amount, confer a different one; and
  - (c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (10) For the purposes of this section an existing provision is a provision of an Act passed before, or in the same Session as, this Act.
- (11) In this section “Act” includes a private or local Act.

#### Textual Amendments

**F275** S. 151(4)(b) and word substituted (S.) (1.4.1996) for s. 151(4)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(10)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

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

**C104** S. 151 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 11** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)  
S. 151 amended (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 87(6), **Sch. 14 para. 7** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

## 152 Interpretation, consultation and commencement of ss. 150 and 151.

- (1) For the purposes of sections 150 and 151 above the following are excepted functions—
  - (a) functions relating to education in schools;
  - (b) functions relating to the provision of a public library service;
  - (c) functions relating to fire fighting, that is to say, the extinction of fire and the protection of life and property in case of fire;
  - (d) functions relating to the registration of electors;
  - (e) functions relating to the conduct of elections;
  - <sup>F276</sup>(f) .....
- (2) For the purposes of those sections in their application to England and Wales, each of the following is a relevant authority—
  - (a) a county council;
  - <sup>F277</sup>(aa) a county borough council;
  - (b) a district council;
  - (c) a London borough council;

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- (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - [<sup>F278</sup>(f) 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>F279</sup>(g) .....
  - (h) an authority established under section 10 of the <sup>M121</sup>Local Government Act 1985 (waste disposal authorities);
  - (i) a joint authority established by Part IV of that Act [<sup>F280</sup>(fire and rescue services and transport)];
  - [<sup>F281</sup>(iza) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
  - (izb) a combined authority established under section 103 of that Act;]
  - [<sup>F282</sup>(ia) an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities);]
  - (j) an authority or board constituted a port health authority at any time by an order under section 2 of the <sup>M122</sup>Public Health (Control of Disease) Act 1984;
  - [<sup>F283</sup>(ja) a National Park authority]
  - [<sup>F284</sup>(jb) a conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000;]
  - (k) .....
  - (l) the Broads Authority. [<sup>F285</sup>. . .]
  - [<sup>F286</sup>(m) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M123</sup>Town and Country Planning Act 1990.]
  - [<sup>F287</sup>(n) the London Fire and Emergency Planning Authority.]
- (3) For the purposes of those sections in their application to Scotland, each of the following is a relevant authority—
- [<sup>F288</sup>(a) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]
  - <sup>F289</sup>(d) .....
  - [<sup>F290</sup>(e) a joint board or joint committee within the meaning of section 235(1) of the Local Government (Scotland) Act 1973.]
- (4) The Secretary of State may by order made by statutory instrument provide for any other body to be, or for a body to cease to be, a relevant authority for the purposes of those sections; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) In those sections “prescribed” means prescribed by the regulations concerned.
- (6) Before exercising any power to make regulations under section 150 or section 151 above, the Secretary of State shall consult—
- (a) as respects England and Wales, such representatives of local government, and
  - (b) as respects Scotland, such associations of local authorities,
- as appear to him to be appropriate.

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(7) This section and sections 150 and 151 above shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F276** S. 152(1)(f) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. 1 para. 41, **Sch. 9 Pt. 1**; S.I. 1994/3262, **art. 4 Sch.** (subject to transitional provisions in art. 5(2)-(8))
- F277** S. 152(2)(aa) inserted (7.1.1997) by S.I. 1996/3071, **art. 2, Sch. para. 3(7)**
- F278** S. 152(2)(f) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by **Fire and Rescue Services Act 2004 (c. 21)**, s. 61, **Sch. 1 para. 71(4)**; S.I. 2004/2304, **art. 2**; S.I. 2004/2917, **art. 2**
- F279** S. 152(2)(g) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. 1 para. 41, **Sch. 9 Pt. 1**; S.I. 1994/3262, **art. 4 Sch.** (subject to transitional provision in art. 5(2)-(8))
- F280** Words in s. 152(2)(i) substituted (1.4.2005) by **Civil Contingencies Act 2004 (c. 36)**, s. 34(1), **Sch. 2 para. 10(3)(b)**; S.I. 2005/772, **art. 2(b)**
- F281** S. 152(2)(iza)(izb) inserted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009 (c. 20)**, s. 148(6), **Sch. 6 para. 81(6)**; S.I. 2009/3318, **art. 2(c)**
- F282** S. 152(2)(ia) inserted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007 (c. 28)**, s. 245(5), **Sch. 13 para. 48**; S.I. 2008/917, **art. 2(1)(p)**
- F283** S. 152(2)(ja) inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 11** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- F284** S. 152(2)(jb) inserted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 87(6), **Sch. 14 para. 7** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**
- F285** S. 152(2)(l) word repealed (3.7.2000) by 1999 c. 29, s. 423, **Sch. 34 Pt. 8** (with **Sch. 12 para. 9(1)**); S.I. 2000/1094, **art. 4(i)**
- F286** S. 152(2)(m) and word “and” immediately preceding it inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(4)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2**
- F287** S. 152(2)(n) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 56** (with **Sch. 12 para. 9(1)**); S.I. 2000/1094, **art. 4(h)**
- F288** S. 152(3)(a) substituted (1.4.1996) for paras. (a)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(11)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F289** S. 152(3)(d) repealed (S.) (1.10.2009) by **Public Health etc. (Scotland) Act 2008 (asp 5)**, s. 128(2), **sch. 3 Pt. 1** (with s. 127); S.S.I. 2009/319, **art. 2(a), sch. 1**
- F290** S. 152(3)(e) and the word “and” immediately preceding it substituted (1.4.1996) for paras. (e)(f) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(11)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

- M121** 1985 c. 51.  
**M122** 1984 c. 22.  
**M123** 1990 c. 8.

### 153 Charges: temporary traffic signs.

(1) In section 65 of the <sup>M124</sup>Road Traffic Regulation Act 1984 (powers and duties of highways authorities and roads authorities as to placing of traffic signs) after subsection (3) there shall be inserted the following subsection—

“(3A) No charge may be made—

- (a) in England and Wales, by a highway authority which is the council of a county, metropolitan district or London borough or the Common Council of the City of London, or

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- (b) in Scotland, by a local roads authority,  
with respect to the exercise of their power under subsection (1) above to permit a traffic sign to be placed on or near any road in their area if—
- (i) the sign conveys information of a temporary nature or is otherwise intended to be placed only temporarily; and
  - (ii) the sign is to be placed by a body which is prescribed for the purposes of this subsection as being a body appearing to the Secretary of State to be representative of the interests of road users or any class of road users.”

- (2) Subsection (1) above does not apply in any case where, before this section comes into force, the payment of a charge has been agreed.

#### Marginal Citations

M124 1984 c. 27.

#### 154 Charges: library services.

- (1) For subsections (2) to (5) of section 8 of the <sup>M125</sup>Public Libraries and Museums Act 1964 (exceptions to restrictions on charging for library facilities) there shall be substituted the following subsections—

- “(2) Subject to subsections (3) and (4) below, the Minister may by regulations—
- (a) authorise library authorities to make charges for such library facilities made available by them as may be specified in the regulations; and
  - (b) make such provision as regards charges by library authorities for library facilities, other than provision requiring the making of charges, as he thinks fit.

- (3) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for lending any written material to any person where—

- (a) it is the duty of the authority under section 7(1) above to make facilities for borrowing available to that person;
- (b) the material is lent in the course of providing such facilities to that person on any library premises;
- (c) the material is lent in a form in which it is readable without the use of any electronic or other apparatus; and
- (d) that person is not a person who has required any such apparatus to be used, or made available to him, for putting the material into such a form in order that he may borrow it;

but this subsection shall not prevent any regulations under this section from authorising the making of charges in respect of the use of any facility for the reservation of written materials or in respect of borrowed materials which are returned late or in a damaged condition.

- (4) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for making facilities available for any person to do any of the following on any library premises, that is to say—

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- (a) reading the whole or any part of any of the written materials for the time being held by the authority in a form in which they are readable without the use of any electronic or other apparatus or in microform;
  - (b) consulting (whether or not with the assistance of any such apparatus or of any person) such catalogues, indexes or similar articles as are maintained, in any form whatever, exclusively for the purposes of that authority's public library service.
- (5) Without prejudice to the generality of subsection (2) above, the power to make regulations under this section shall include power—
- (a) to confer a discretion as to the amount of any charge made under theregulations;
  - (b) to provide for such a discretion to be exercisable subject to such maximum amount or scale of maximum amounts as may be specified in or determined under the regulations;
  - (c) to require library authorities to take such steps as may be specified or described in the regulations for making the amounts of their charges for library facilities known to the public;
  - (d) to make such other incidental provision and such supplemental, consequential and transitional provision as the Minister thinks necessary or expedient; and
  - (e) to make different provision for different cases, including different provision in relation to different persons, circumstances or localities.
- (5A) The power to make regulations under this section shall be exercisable by statutory instrument; and no regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.”
- (2) After subsection (6) of that section there shall be inserted the following subsection—
- “(7) In this section—
- “library premises” means—
- (a) any premises which are occupied by a library authority and are premises where library facilities are made available by the authority, in the course of their provision of a public library service, to members of the public;
  - (b) any vehicle which is used by a library authority for the purpose of providing such a service and is a vehicle in which facilities are so made available;
- “the Minister” means—
- (a) in relation to library authorities whose areas are in England, the Lord President of the Council; and
  - (b) in relation to library authorities whose areas are in Wales, the Secretary of State;
- and
- “written material” means—
- (a) any book, journal, pamphlet or other similar article; or
  - (b) any reprographic copy (within the meaning of the Copyright, Designs and Patents Act 1988) of any article falling within

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paragraph (a) above or any other reproduction of such an article made by any means whatever.”

- (3) This section shall come into force on such day as the Lord President of the Council and the Secretary of State, acting jointly, may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.

#### Commencement Information

**I8** S. 154 wholly in force at 01. 01. 1992 see S.I. 1991/2940, art. 2

#### Marginal Citations

**M125** 1964 c. 75.

### *Miscellaneous local government provisions*

#### **155 Emergency financial assistance to local authorities.**

- (1) In any case where—
- an emergency or disaster occurs involving destruction of or danger to life or property, and
  - as a result, one or more local authorities incur expenditure on, or in connection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience, in their area or among its inhabitants,

the Secretary of State may establish a scheme under this section for the giving of financial assistance to those authorities in respect of that expenditure.

[<sup>F291</sup>(1A) Expenditure incurred as mentioned in subsection (1) above by—

- the London Fire and Emergency Planning Authority,
- the Metropolitan Police Authority, or
- Transport for London, in respect of places or areas within Greater London,

shall be treated for the purposes of this section as expenditure so incurred by the Greater London Authority (and, accordingly, as so incurred by a local authority).

- (1B) To the extent that any financial assistance given to the Greater London Authority under this section is referable to expenditure incurred by a body mentioned in paragraph (a), (b) or (c) of subsection (1A) above, the financial assistance shall be treated for the purposes of section 103 of the Greater London Authority Act 1999 as a payment made to the Greater London Authority for the purposes of that body.]

- (2) Financial assistance given pursuant to a scheme under this section shall take the form of grants paid by the Secretary of State with the consent of the Treasury and, subject to that, the terms and conditions of a scheme shall be such as the Secretary of State considers appropriate to the circumstances of the particular emergency or disaster concerned.
- (3) Without prejudice to the generality of subsection (2) above, a scheme under this section may—

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- (a) make the payment of grants conditional upon the making of claims of a description specified in the scheme;
  - (b) make provision with respect to the expenditure qualifying for grant and the rates and amounts of grants;
  - (c) make provision in certain specified circumstances for the repayment of any grant, in whole or in part; and
  - (d) make different provision for different local authorities or descriptions of authority and for different areas.
- (4) In the application of this section to England and Wales, any reference to a local authority is a reference to—
- (a) a county council;
  - [<sup>F292</sup>(aa) a county borough council;]
  - (b) a district council;
  - [<sup>F293</sup>(bb) the Greater London Authority;]
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - [<sup>F294</sup>(ea) a police authority established under section [<sup>F295</sup>3 of the <sup>M126</sup>Police Act 1996];  
<sup>F296</sup> ...]
  - (eb) <sup>F297</sup> .....
  - [<sup>F298</sup>(f) the Receiver for the Metropolitan Police District; or]
  - (g) a joint authority established by Part IV of the <sup>M127</sup>Local Government Act 1985, other than [<sup>F299</sup>an Integrated Transport Authority]; <sup>F300</sup> ...
  - [<sup>F301</sup>(h) 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>F302</sup>(i) a National Park authority; or]
  - [<sup>F302</sup>(j) the Broads Authority.]
- (5) In the application of this section to Scotland, any reference to a local authority is a reference to
- [<sup>F303</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]
  - <sup>F304</sup> . . . a joint board or joint committee within the meaning of the <sup>M128</sup>Local Government (Scotland) Act 1973.
- (6) The reference in subsection (1)(b) above to expenditure incurred by a local authority includes, in the case of an authority in England and Wales, expenditure incurred in defraying, or contributing towards defraying, expenditure incurred by a parish or community council.
- (7) This section shall come into force on 1st April 1990.

#### Textual Amendments

**F291** S. 155(1A)(1B) inserted (3.7.2000) by 1999 c. 29, s. 104(1)(2) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 4

**F292** S. 155(4)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2 Sch. para. 3(8)

**F293** S. 155(4)(bb) inserted (3.7.2000) by 1999 c. 29, s. 104(1)(3)(a) (with Sch. 12 para. 9(1)); S.I. 1999/3434, art. 4



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- F294** S. 155(4)(ea) inserted (1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 para. 42**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F295** Words in s. 155(4)(ea) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104, **Sch. 7 Pt. I para. 1(2)(zd)**
- F296** Word in s. 155(4)(ea) repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 7(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F297** S. 155(4)(eb) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. II para. 53(b), Sch. 7 Pt. V(1); S.I. 2002/344, **art. 3** (with transitional provisions in art. 4)
- F298** S. 155(4)(f) ceased to have effect (3.7.2000) by virtue of 1999 c. 29, s. 104(1)(3)(c) (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
- F299** Words in s. 155(4)(g) substituted (9.2.2009) by Local Transport Act 2008 (c. 26), s. 134(4), **Sch. 4 para. 57(2)**; S.I. 2009/107, art. 2(1), **Sch. 1 Pt. 1**
- F300** Word in s. 155(4) repealed (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 65(3), 107(3)(b), **Sch. 12**; S.I. 2006/2541, **art. 2** (with Sch.)
- F301** S. 155(4)(h) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 1 para. 71(5)**; S.I. 2004/2304, **art. 2**; S.I. 2004/2917, **art. 2**
- F302** S. 155(4)(i)(j) inserted (1.10.2006) by Natural Environment and Rural Communities Act 2006 (c. 16), ss. 65(2), 107(3)(b); S.I. 2006/2541, **art. 2** (with Sch.)
- F303** S. 155(5) words substituted (1.4.1996) for paras. (a)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(12)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**
- F304** S. 155(5): letter “(d)” repealed (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(12)(b), **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**

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

- C105** S. 155 amended (28.11.1994) by S.I. 1994/2825, **reg. 41**  
S. 155 power to deal with matters of the kind dealt with in this part conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(iv); S.I. 1997/1930, **art. 2(m)**

#### Marginal Citations

- M126** 1996 c. 16.  
**M127** 1985 c. 51.  
**M128** 1973 c.65.

## 156 Contingency planning and co-ordination in respect of emergencies or disasters.

- (1) In section 138 of the <sup>M129</sup>Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters) after subsection (1) there shall be inserted the following subsection—

“(1A) If a principal council are of the opinion that it is appropriate to undertake contingency planning to deal with a possible emergency or disaster which, if it occurred,—

- (a) would involve destruction of or danger to life or property, and  
(b) would be likely to affect the whole or part of their area,

they may incur such expenditure as they consider necessary on that planning (whether relating to a specific kind of such possible emergency or disaster or generally in relation to possible emergencies or disasters falling within paragraphs (a) and (b) above).”

- (2) In subsection (3) of that section—

- (a) for the words from the beginning to “authorise” there shall be substituted “Nothing in this section authorises”; and

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- (b) for the words “the power conferred by that subsection is” there shall be substituted “ the powers conferred by subsections (1) and (1A) above are ”.
- (3) At the end of the section there shall be added the following subsections—
- “(5) With the consent of the Secretary of State, a metropolitan county fire and civil defence authority and the London Fire and Civil Defence Authority may incur expenditure in co-ordinating planning by principal councils in connection with their functions under subsection (1) above.
- (6) In this section “contingency planning” means the making, keeping under review and revising of plans and the carrying out of training associated with the plans.”

**Marginal Citations**  
M129 1972 c. 70.

**157 Commutation of, and interest on, periodic payments of grants etc.**

- (1) In any case where, by virtue of any enactment, the Secretary of State has a power or duty to make to a local authority any annual or other periodic payments by way of contribution, grant or subsidy towards expenditure incurred or to be incurred by the local authority, the Secretary of State—
- (a) may determine to commute any such payments which would otherwise fall due on or after 1st April 1990 either into a single payment or into such number of payments (being less than would otherwise be payable) as he considers appropriate; and
- (b) may, if he thinks it appropriate, pay to the Public Works Loans Commissioners the whole or any part of any single or other payment determined under paragraph (a) above so as to reduce or extinguish such debt (whether then due or not) of the local authority to those Commissioners as the Secretary of State thinks fit.
- (2) The amount required to reduce or extinguish a debt as mentioned in paragraph (b) of subsection (1) above shall be such as may be determined by the Public Works Loans Commissioners and where, by virtue of that paragraph, only part of a commuted payment is paid to those Commissioners, the balance shall be paid to the local authority concerned.
- (3) Subsection (1) above applies whether the annual or other periodic payments began, or would otherwise begin, before, on or after the passing of this Act and applies notwithstanding anything in any enactment requiring the paymentsto be made over a period of twenty years or any other specified period.
- (4) A single or other payment falling to be made by virtue of subsection (1) above is in this section referred to as a “commuted payment” and the calculation of the amount of any commuted payment shall be such as appears to the Secretary of State to be appropriate.
- (5) In any case where the amount of any annual or other periodic payment such as is mentioned in subsection (1) above is, at the passing of this Act, calculated by reference to a rate of interest which varies from time to time, the Secretary of State may substitute a fixed rate of interest.

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- (6) In this section “local authority”, as respects England and Wales, means any of the following—
- (a) a county council;
  - [<sup>F305</sup>(aa) a county borough council;]
  - (b) a district council;
  - (c) a London borough council;
  - (d) the Common Council of the City of London;
  - (e) the Council of the Isles of Scilly;
  - (f) the Metropolitan Police Authority;
  - [<sup>F306</sup>(g) a police authority established under [<sup>F307</sup>section 3 of the <sup>M130</sup>Police Act 1996];]
  - (ga) <sup>F308</sup>.....
  - (h) a joint authority established by Part IV of the <sup>M131</sup>Local Government Act 1985; and
  - (i) a residuary body established under Part VII of that Act;
  - [<sup>F309</sup>(j) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009; and
  - (k) a combined authority established under section 103 of that Act;]
- and, as respects Scotland, means a [<sup>F310</sup>a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board or joint committee within the meaning of section 235(1) of the <sup>M132</sup>Local Government (Scotland) Act 1973.
- (7) If, after a commuted payment has been made to a local authority or to the Public Works Loans Commissioners, it appears to the Secretary of State that the payment was smaller or greater than it should have been (whether by virtue of a miscalculation, the occurrence of any event, the failure to comply with any condition or otherwise) the Secretary of State may, as the case may require,—
- (a) make a further payment to the authority concerned or to those Commissioners; or
  - (b) require the repayment or payment to him by that authority of such sum as he may direct.
- (8) Without prejudice to the operation of the preceding provisions of this section, with respect to—
- (a) any contribution in respect of an expense incurred on or after 1st April 1990; and
  - [<sup>F311</sup>(b) so much of any contributions in respect of an expense incurred on or after 1st April 1989 and before 1st April 1990 as have not been made before 1st April 1990]
- section 569 of the <sup>M133</sup>Housing Act 1985 (contribution by Secretary of State to certain expenses incurred by local housing authorities) shall be amended as follows -
- (i) in subsection (2) (which relates to contributions as annual payments) for the words following “shall be” there shall be substituted the words “ equal to the relevant percentage of the amount of the expense incurred ”; and
  - (ii) subsection (5) (which relates to annual loan charges) shall cease to have effect.
- (9) Without prejudice to the generality of section 230 of the <sup>M134</sup>Local Government Act <sup>M135</sup>1972 or section 235(1) of the Local Government (Scotland) Act 1973 (local authorities’ duty to make reports and returns to the Secretary of State), every local authority and the Inner London Education Authority shall furnish to the Secretary

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of State such information as he may by notice in writing reasonably require for the purposes of this section and, if the notice so specifies, any such information shall be certified and audited in such manner and supplied not later than such date and in such form as may be so specified.

- (10) Nothing in this section applies in relation to any payments to which, under Part IV of Schedule 15 to the Housing Act 1985 (superseded contributions etc.: town development subsidy), provision already exists for the commutation of payments.

#### Textual Amendments

- F305** S. 157(6)(aa) inserted (7.1.1997) by S.I. 1997/3071, art. 2, **Sch. para. 3(9)**
- F306** S. 157(6)(g) substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 43**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F307** Words in s. 157(6)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. 1 para. 1(2) (zd)**
- F308** S. 157(6)(ga) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 2 para. 54, Sch. 7 Pt. 5; S.I. 2002/344, art. 3 (with transitional provision in art. 4)
- F309** S. 157(6)(j)(k) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 81(7)**; S.I. 2009/3318, art. 2(c)
- F310** Words in s. 157(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(13)** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F311** S. 157(8)(b) substituted (E.W.) (*retrospective* to 1.1.1993) by 1993 c. 28, s. 138(1)(2)

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

- C106** S. 157 amended (28.11.1994) by S.I. 1994/2825, **reg. 42(1)(a)**  
S. 157 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(n)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))  
S. 157 power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(v); S.I. 1997/1930, **art. 2(m)**
- C107** S. 157(1) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(a)**
- C108** S. 157(1)(b) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(b)**

#### Marginal Citations

- M130** 1996 c. 16.  
**M131** 1985 c. 51.  
**M132** 1973 c. 65.  
**M133** 1985 c. 68.  
**M134** 1972 c. 70.  
**M135** 1973 c. 65.

## 158 Electronic transfer of documents.

- (1) In subsection (2) of section 9 of the <sup>M136</sup>Local Land Charges Act 1975, the words “A requisition under this section must be in writing, and” shall be omitted.
- (2) In subsection (2) of section 14 of that Act after the word “include” there shall be inserted “(a)”, and at the end of that subsection there shall be inserted the following paragraphs—
- “(b) power to make rules providing for the use of electronic means in the making of requisitions for, and in the issue of, official search certificates, notwithstanding subsection (3) of section 231

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of the Local Government Act 1972 (service of documents on local authorities) provided that—

- (i) such rules shall not provide that a requisition is duly made by electronic means, except where the local authority to whom it is made consents to the use of those means, or that an official search certificate is duly issued by electronic means, except where the person requiring the search consents to the use of those means; and
  - (ii) such consent may be given either generally or in relation to a specified document or description of documents, and either before or after the making of the requisition or the issue of the certificate; and
- (c) power to make rules modifying the application of sections 10 and 11 above in cases where—
- (i) the rules provide for the making of a requisition for, or the issuing of, an official search certificate by electronic means, and
  - (ii) there has been any error or failure in those means.”

#### Marginal Citations

M136 1975 c. 76.

### 159 Prevention of continuance or recurrence of default of local authority: Scotland.

(1) Section 211 of the <sup>M137</sup>Local Government (Scotland) Act 1973 (provision for default of local authority) shall be amended in accordance with this section.

(2) After subsection (2) there shall be inserted the following subsections—

“(2A) If the Secretary of State or appropriate Minister—

- (a) is about to make an order under subsection (2) above; and
- (b) is satisfied that the failure to which the order relates has continued or recurred,

he may, in that order and without any local inquiry, declare the authority to be in default in respect of the continuance or recurrence of the failure and direct them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(2B) The Secretary of State or appropriate Minister may, in an order under subsection (2) above, notify the local authority that any continuance or recurrence of the failure in respect of which the authority have been declared to be in default happening after the date of the order may be made the subject of an application to the Court of Session under subsection (3A) below.”

(3) After subsection (3) there shall be inserted the following subsection—

“(3A) If—

- (a) a local authority have been notified under subsection (2B) above; and
- (b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

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the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been such continuance or recurrence of the failure and do otherwise as to the court appears to be just.”

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**Marginal Citations**

M137 1973 c. 65.

F312 160 .....

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**Textual Amendments**

F312 S. 160 omitted (7.1.1997) by virtue of S.I. 1996/3071, art. 2, Sch. para. 3(10)

*Miscellaneous housing provisions*

**161 Housing authorities not required to keep a housing stock.**

(1) At the end of section 9 of the <sup>M138</sup>Housing Act 1985 (provision of housing accommodation) there shall be added the following subsection—

“(5) Nothing in this Act shall be taken to require (or to have at any time required) a local housing authority itself to acquire or hold any houses or other land for the purposes of this Part.”

(2) At the end of section 2 of the <sup>M139</sup>Housing (Scotland) Act 1987 (powers of local authorities to provide housing accommodation) there shall be added the following subsection—

“(6) Nothing in this Act shall be taken to require (or to have at any time required) a local authority itself to acquire or hold any houses or other land for the purposes of this Part.”

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**Marginal Citations**

M138 1985 c. 68.

M139 1987 c. 26.

**162 Determination of rents.**

In section 24 of the Housing Act 1985 (rents), there shall be added at the end the following subsections—

“(3) In exercising their functions under this section, a local housing authority shall have regard in particular to the principle that the rents of houses of any class or description should bear broadly the same proportion to private sector rents as the rents of houses of any other class or description.

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- (4) In subsection (3) “private sector rents”, in relation to houses of any class or description, means the rents which would be recoverable if they were let on assured tenancies within the meaning of the Housing Act 1988 by a person other than the authority.”

**163 Exchanges between secure and assured tenants.**

- (1) Section 92 of the Housing Act 1985 (assignment of secure tenancies by way of exchange) shall be amended in accordance with subsections (2) and (3) below.
- (2) At the end of subsection (1) there shall be added the words “ or to an assured tenant who satisfies the conditions in subsection (2A) ”.
- (3) After subsection (2) there shall be inserted the following subsection—
  - “(2A) The conditions to be satisfied with respect to an assured tenant are—
    - (a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity; and
    - (b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2).”
- (4) In section 117 of the Housing Act 1985 (index of defined expressions for Part IV) before the entry relating to “cemetery” there shall be inserted—
  - “ assured tenancy »section 622 ”.

<sup>F313</sup>**164 Exception to the right to buy in case of certain dwelling-houses for persons of pensionable age.**

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**Textual Amendments**  
**F313** S. 164 repealed (11.10.1993) by 1993 c. 28, s.187(2), **Sch.22**; S.I. 1993/2134, art.4(b), **Sch. 2** (with Sch. 1 para. 4(1)(2))

**165 Unfit housing etc.**

- (1) In the Housing Act 1985,—
  - <sup>F314</sup>(a) .....
  - (b) Part IX (slum clearance) shall be amended in accordance with Part II of that Schedule;
  - <sup>F315</sup>(c) .....
  - (d) Part XVII (compulsory purchase and land compensation) shall be amended in accordance with Part IV of that Schedule; and
  - (e) Part XVIII (miscellaneous and general) shall be amended in accordance with Part V of that Schedule.
- (2) Part VII of the Housing Act 1985 (improvement notices) shall cease to have effect.



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- (3) For any financial year beginning after the day appointed for the coming into force of this subsection the following provisions of this section shall have effect in place of sections 312 to 314 of the Housing Act 1985 (slum clearance subsidy); and in those provisions “slum clearance functions” means any of the functions under the provisions of Part IX of that Act relating to—
- (a) the demolition, closing or purchase of unfit premises,
  - (b) the demolition of obstructive buildings, and
  - (c) clearance areas,
- but does not include functions under sections 308 to 311 of that Act (owner’s redevelopment or improvement).
- (4) On such conditions as he may determine the Secretary of State may pay slum clearance subsidy to a local housing authority in respect of any financial year for which, applying such method of calculation as may be determined by the Secretary of State, the authority have incurred a loss in connection with the exercise of their slum clearance functions; and the rate or rates of the subsidy and the manner in which it is paid shall be such as may be determined by him.
- (5) If for any financial year, applying such method of calculation as is referred to in subsection (4) above, a local housing authority have incurred a surplus in connection with the exercise of their slum clearance functions, the Secretary of State may require the authority to pay to him such sum as he may determine in respect of that surplus, together with interest thereon from such time and at such rate or rates as he may determine.
- (6) Any determination of the Secretary of State under subsection (4) or subsection (5) above—
- (a) shall be made with the consent of the Treasury;
  - (b) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area; and
  - (c) may make different provision for different cases or descriptions of case.
- (7) If, before the declaration of a renewal area under Part VII of this Act, a local housing authority are satisfied that the rate of slum clearance subsidy which, in accordance with a determination under subsection (4) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for a subsidy at a higher rate in respect of that area.
- (8) An application under subsection (7) above shall be made in such form and contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.
- (9) If an application under subsection (7) above is approved, the Secretary of State may pay slum clearance subsidy in respect of the area concerned at such higher rate as he may determine under subsection (4) above.

#### Textual Amendments

**F314** S. 165(1)(a) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)



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**F315** S. 165(1)(c) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

## 166 Amendments relating to defective housing.

(1) Part XVI of the <sup>M140</sup>Housing Act 1985 (in this section referred to as “the 1985 Act”) and Part XIV of the <sup>M141</sup>Housing (Scotland) Act 1987 (in this section referred to as “the 1987 Act”) (assistance for owners of defective housing) shall each be amended in accordance with this section.

(2) In section 537 of the 1985 Act and section 265 of the 1987 Act (determination of form of assistance to which applicant is entitled) in subsection (1) after the word “determine” there shall be inserted “ assoon as reasonably practicable ”.

(3) In section 539 of the 1985 Act and section 267 of the 1987 Act (meaning of “work required for reinstatement” etc.) after subsection (1) there shall be inserted the following subsection—

“(1A) In any case where—

(a) the most satisfactory way of dealing with the qualifying defect is substantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and

(b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling.”

(4) In section 561 of the 1985 Act and section 289 of the 1987 Act (Secretary of State’s control over designation, variation or revocation)—

(a) in subsection (2) after the word “before” there shall be inserted “ the cut-off date or if it is later ” and after the words “twomonths” there shall be inserted “ or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A)below ”;

(b) after that subsection there shall be inserted the subsection specified in subsection (5) below; and

(c) in subsection (3) for the words “within that period” there shall be substituted “ before the cut-off date or, if it is later, the expiry of the period for the time being specified in or for the purposes of subsection (2) above ”.

(5) The subsection referred to in subsection (4)(b) above is as follows—

“(2A) If, within the period for the time being specified in or (by virtue of the previous operation of this subsection) for the purposes of subsection (2) above, the Secretary of State is satisfied that he does not have reasonably sufficient information to enable him to come to a decision with respect to there solution concerned, he may direct for the purposes of that subsection that it shall have effect as if for the period so specified there were substituted such longer period as is specified in the direction.”

(6) In section 567 of the 1985 Act (modifications of Part XVI in relation to shared ownership leases) for subsections (1) to (3) there shall be substituted the following subsections—

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- “(1) If it appears to a local housing authority that the interest of a person eligible for assistance in respect of a defective dwelling in their area is—
- (a) a shared ownership lease, or
  - (b) the freehold acquired under the terms of a shared ownership lease,
- the authority shall prepare and submit to the Secretary of State a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.
- (2) A scheme under subsection (1) above shall not have effect unless approved by the Secretary of State; and any such approval may be made conditional upon compliance with requirements specified by him.”
- (7) Any power of the Secretary of State to make regulations under subsection (4) of section 567 of the 1985 Act shall cease to have effect; and in paragraph (d) of that subsection after the word “class” there shall be inserted “or description”.

**Marginal Citations**

M140 1985 c. 68.

M141 1987 c.26.

<sup>F316</sup>**167 Reports to tenants etc. on local housing authority functions.**

.....

**Textual Amendments**

**F316** S. 167 repealed (17.2.2005 for E., 14.7.2005 for W.) by [Housing Act 2004 \(c. 34\)](#), ss. 227, 270(4)(5) (c), [Sch. 16](#); S.I. 2005/326, art. 2(b); S.I. 2005/1814, arts. 1(2), 2(b)

**168 Contributions towards costs of housing mobility arrangements.**

- (1) The Secretary of State may with the consent of the Treasury make grants or loans towards the cost of arrangements for enabling or assisting persons to move and become,—
- (a) in England and Wales, tenants or licensees of dwellings; and
  - (b) in Scotland, tenants of houses.
- (2) The grants or loans may be made subject to such conditions as the Secretary of State may determine and may be made so as to be repayable or, as the case may be, repayable earlier if there is a breach of such a condition.
- (3) In this section—
- “dwelling” means a building or a part of a building occupied or intended to be occupied as a separate dwelling;
  - “house” has the same meaning as in the <sup>M142</sup>Housing (Scotland) Act 1987; and
  - “tenant” does not include a tenant under a long lease within the meaning of the <sup>M143</sup>Landlord and Tenant Act 1987 or, as respects Scotland, under a lease for a period exceeding 20 years.

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- (4) Section 107 of the <sup>M144</sup>Housing Act 1985 and section 80 of the Housing (Scotland) Act 1987 (which make provision similar to that made by the preceding provisions of this section, but limited to secure tenants) shall cease to have effect.

**Marginal Citations**

M142 1987 c.26.  
 M143 1987 c. 31.  
 M144 1985 c. 68.

**169 Powers of local authorities and Secretary of State as respects services etc. for owners and occupiers of houses for work on them.**

- (1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of dwellings in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.
- (2) Works are relevant works in relation to a dwelling or, as the case may be, a dwelling in any area, if they are works of any of the following descriptions, that is to say—
- (a) works to cause the dwelling to be fit for human habitation,
  - (b) where the occupant is disabled, works for any of the purposes specified in <sup>F317</sup>section 23 of the Housing Grants, Construction and Regeneration Act 1996 (disabled facilities grants: purposes)],
  - <sup>F318</sup>(c) .....
  - <sup>F318</sup>(d) .....
- (3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—
- (a) to consider whether or not to make a charge for exercising it; and
  - (b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.
- (4) A relevant authority shall have power to give financial assistance in any form to—
- (a) any housing association,
  - (b) any charity, or
  - (c) any body, or body of any description, approved by the Secretary of State,
- towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of a relevant authority—
- (a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and
  - (b) in exercising any power conferred by subsection (4) above in relation to any association, charity or body—

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- (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
  - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.
- (7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.
- (8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.
- (9) In this section—
- “charity” means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court’s jurisdiction with respect to charities;
  - “housing association” means a housing association within the meaning of section 1(1) of the <sup>M145</sup>Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such [<sup>F319</sup>works]);
  - “local housing authority” shall be construed in accordance with section 1 of the <sup>M146</sup>Housing Act 1985; and
  - “relevant authority” means a local housing authority or county council.

#### Textual Amendments

- F317** Words in s. 169(2)(b) substituted (17.12.1996) by 1996 c. 53, s. 103, **Sch. 1 para. 15(1)(2)**; S.I. 1996/2842, **art. 3**
- F318** S. 169(2)(c)(d) repealed (19.7.2003) by **The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860)**, **art. 1(3)**, **Sch. 4 para. 3**, **Sch. 6**
- F319** S. 169(9): words in definition of “housing association” substituted (1.10.1996) by S.I. 1996/2325, **art. 5(1)**, **Sch. 2 para. 19(6)**

#### Marginal Citations

- M145** 1985 c. 69.  
**M146** 1985 c. 68.

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**170 Powers of local authorities and Secretary of State as respects services, etc., for owners and occupiers of houses for work on them: Scotland.**

- (1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of houses in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.
- (2) Relevant works are such works as may be specified in regulations made by the Secretary of State and such works may be so specified by reference to such factors (including factors relating to persons of such descriptions as may be so specified) as the Secretary of State thinks fit.
- (3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—
  - (a) to consider whether or not to make a charge for exercising it; and
  - (b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.
- (4) A relevant authority shall have power to give financial assistance in any form to—
  - (a) any housing association,
  - (b) any charity, or
  - (c) any body, or body of any description, approved by the Secretary of State,
 towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of houses in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.
- (5) It shall be the duty of a relevant authority—
  - (a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and
  - (b) in exercising any power conferred by subsection (4) above in relation to any association, charity or body—
    - (i) to have regard to whether that association, charity or body has made or will make charges and their amount; and
    - (ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.
- (6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.
- (7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.

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(8) The person receiving assistance shall comply with the terms on which it is given and compliance may be enforced by the Secretary of State.

(9) In this section—

“charity” means any body, corporate or not, established for charitable purposes;

“charitable purposes” shall be construed in the same way as if it were contained in the Income Tax Acts;

“house” has the meaning given by section 338 of the <sup>M147</sup>Housing (Scotland) Act 1987;

“housing association” means a housing association within the meaning of section 1(1) of the <sup>M148</sup>Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works);

“relevant authority” means a [<sup>F320</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]

#### Textual Amendments

**F320** S. 170(9): words in definition of “relevant authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(14)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

#### Marginal Citations

**M147** 1987c. 26.

**M148** 1985 c. 69.

## 171 Winding up of home purchase assistance scheme.

(1) The Secretary of State may by order make provision for the purpose of bringing to an end the scheme for assistance for first-time buyers which—

(a) as respects England and Wales, is contained in sections 445 to 450 of the <sup>M149</sup>Housing Act 1985, and

(b) as respects Scotland, is contained in sections 222 to 227 of the Housing (Scotland) Act 1987,

and in the following provisions of this section, the enactments specified in paragraphs (a) and (b) above together with any orders and directions made under those enactments are referred to as “the assistance legislation”.

(2) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection—

(a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;

(b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number of payments of such

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- amount and payable at such time or times as may be determined in accordance with the order; and
- (c) may provide for the amendment or repeal, in whole or in part, of the assistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.
- (3) The following powers, namely,—
- (a) the powers conferred on the Secretary of State by subsection (3) of section 446 of the Housing Act 1985 and subsection (3) of section 223 of the Housing (Scotland) Act 1987 to relax or modify the conditions in subsection (2) of each of those sections respectively (conditions qualifying a purchaser for assistance), and
- (b) any power to make an order under any provision of the assistance legislation, may be so exercised as to make provision for the purpose referred to in subsection (1) above.
- (4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Marginal Citations

M149 1985 c. 68.

## 172 Transfer of new town housing stock.

- (1) Subject to the following provisions of this section, the Secretary of State may by regulations make provision for requiring and authorising each new town corporation to take such steps as may be prescribed for making and giving effect to proposals for disposing of their housing stock, either by transferring it as a whole to a prescribed person or by transferring different parts of it to different prescribed persons.
- (2) Regulations under subsection (1) above shall not require a new town corporation to transfer any dwelling or associated property, rights, liabilities or obligations to any person other than—
- (a) the district council <sup>F321</sup>or Welsh county council or county borough council] within whose <sup>F322</sup>area] the dwelling is situated; or
- (b) a person approved for the purposes of, and in accordance with, the regulations by the <sup>F323</sup>Regulator of Social Housing] <sup>F324</sup> . . .
- (3) Regulations under subsection (1) above shall not require a new town corporation to give effect to a proposal for the transfer of any dwelling if the dwelling is one in respect of which a notice has been served under section 122 of the <sup>M150</sup>Housing Act 1985 (notice of a claim to exercise the right to buy) before the prescribed time and such other conditions as maybe prescribed are satisfied.
- (4) A new town corporation shall not, in pursuance of any regulations under subsection (1) above, transfer any dwellings, or any associated property, rights, liabilities or obligations, to any person except with the consent of the Secretary of State; and the Secretary of State shall not give his consent to a proposed transfer unless he is satisfied—



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- (a) that there has been compliance with all such requirements with respect to the publication of information about the proposal and matters connected with its implementation, and with respect to consultation about the proposal, as are prescribed;
  - (b) that all such steps have been taken as are prescribed for the purpose of protecting the interests of the occupiers of the dwellings or the interests of the occupiers of any dwellings excluded from the proposal by virtue of subsection (3) above or any such consultation; and
  - (c) that the terms on which the transfer is made—
    - (i) require such price to be paid for the property transferred as appears to him to be the price which, on the prescribed assumptions, it would realise if sold on the open market by a willing vendor; and
    - (ii) include all such other terms as are prescribed.
- (5) Regulations under subsection (1) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate, including, without prejudice to the generality of the foregoing, provision corresponding to subparagraphs (2) and (3) of paragraph 2 of Schedule 12 to the <sup>M151</sup>Housing Act 1988 (matters relating to registration of title).
- (6) Subject to subsection (7) below, Part III of the <sup>M152</sup>New Towns Act 1981 (transfer of dwellings and associated property to district councils) shall cease to have effect.
- (7) Nothing in subsection (6) above shall—
- (a) affect the operation after the time when that subsection comes into force of so much of any transfer scheme made under Part III of the said Act of 1981 before that time as contains management arrangements with respect to land in which a new town corporation have an interest;
  - (b) affect the application after that time of section 50 of that Act (financial arrangements) in relation to any transfer scheme made under that Part before that time; or
  - (c) prevent the Secretary of State from exercising his power to make grants to a district council [<sup>F321</sup>or Welsh county council or county borough council] under section 51A of that Act (grants in respect of defects in transferred dwellings) where the grants are paid before the 1st April 1990 or such later date as the Secretary of State may by order made by statutory instrument appoint in relation to that council;
- and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—
- “dwelling” means any building or part of a building occupied, or erected or adapted for occupation, as a dwelling or as a hostel (including any land belonging to it or usually enjoyed with it);
  - “housing stock”, in relation to a new town corporation, means—
    - (a) the dwellings (whether or not in the area of a particular new town) which are vested in that corporation and were erected, adapted or acquired for occupation as dwellings; and
    - (b) except so far as may be prescribed, any associated property, rights, liabilities and obligations of that corporation;



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“liabilities and obligations”, in relation to a new town corporation, includes liabilities and obligations which, apart from the regulations, would not be capable of being assigned or transferred by the corporation, including liabilities and obligations under Part V of the <sup>M153</sup>Housing Act 1985 (the right to buy);

“new town corporation” means <sup>F325</sup>... a development corporation, within the meaning of the New Towns Act 1981; and

“prescribed” means prescribed by or determined under regulations under subsection (1) above.

- (9) For the purposes of this section the following property, rights, liabilities and obligations of a new town corporation shall be treated as associated with any dwellings comprised in their housing stock, that is to say—
- (a) any interest of the corporation in any land occupied or set aside for occupation or use with the dwellings;
  - (b) any interest of the corporation in land in the vicinity of the dwellings which is held by them for the benefit or use of the persons living in those dwellings (rather than the inhabitants of a new town as a whole) or for providing facilities for the persons living in those dwellings, and any other property and any rights of the corporation so held;
  - (c) any property and rights held by the corporation—
    - (i) for the administration of an estate comprising the dwellings or any associated property;
    - (ii) for the maintenance or service of the dwellings or any associated property; or
    - (iii) otherwise in connection with any such property;
  - (d) any rights, liabilities and obligations which the corporation have in connection with any of the dwellings or any associated property or in connection with any dwellings which were previously part of their housing stock;
  - (e) any interest of the corporation in land set aside by them as an open space for the use or enjoyment of persons living in the dwellings (rather than for the use of the inhabitants of a new town as a whole).

#### Textual Amendments

**F321** Words in s. 172(2)(a)(7)(c) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**

**F322** Word in s. 172(2)(a) substituted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**

**F323** Words in s. 172(2)(b) substituted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 76** (with Sch. 3)

**F324** Words in s. 172(2)(b) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 75, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

**F325** Words in s. 172(8) repealed (1.12.2008) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 8 para. 51, **Sch. 16**; S.I. 2008/3068, art. 2(1)(w)(3), 5, Sch. (with arts. 6-13)

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

**C109** S. 172(2)(b) modified (1.12.2008) by The Transfer of Housing Corporation Functions (Modifications and Transitional Provisions) Order 2008 (S.I. 2008/2839), arts. 1(1), 3, **Sch. para. 1** (with art. 6)

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#### Marginal Citations

M150 1985 c. 68.

M151 1988 c. 50.

M152 1981 c. 64.

M153 1985 c. 68.

### 173 Consent required for subsequent disposals.

(1) Where a dwelling which is for the time being subject to a secure tenancy is transferred under section 172 above to a person approved as mentioned in subsection (2)(b) of that section (in this section referred to as an “approved person”), that person shall not dispose of it except—

- (a) with the consent of the [<sup>F326</sup>appropriate authority], which may be given either unconditionally or subject to conditions; or
- (b) by an exempt disposal, as defined in section 81(8) of the <sup>M154</sup>Housing Act 1988;

and any reference in the following provisions of this section to an initial transfer is a reference to the transfer of a dwelling to an approved person under section 172 above.

[<sup>F327</sup>(1A) In this section “the appropriate authority” means—

- (a) in relation to a disposal of land in England by a [<sup>F328</sup>private registered provider] of social housing, the Regulator of Social Housing,
- (b) in relation to any other disposal of land in England, the Secretary of State, and
- (c) in relation to a disposal of land in Wales, the Welsh Ministers.]

(2) Where an estate or interest in a dwelling of the approved person who acquired it on the initial transfer has been mortgaged or charged, the prohibition in subsection (1) above applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—

- (a) by operation of law or by virtue of an order of a court, the dwelling which has been acquired on the initial transfer passes or is transferred from the approved person to another person, and
- (b) that passing or transfer does not constitute a disposal for which consent is required under this section,

this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the dwelling passes or is transferred were the approved person.

(3) Where subsection (1) above applies—

- (a) the new town corporation by whom the initial transfer is made shall furnish to the approved person a copy of the consent of the Secretary of State under section 172(4) above; and
- (b) the instrument by which the initial transfer is effected shall contain a statement in a form approved by the Chief Land Registrar that the requirement of this section as to consent applies to a subsequent disposal of the dwelling by the approved person.

(4) For the purposes of this section the grant of an option to purchase the fee simple or any other interest in a dwelling is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.

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- (5) Before giving any consent required by virtue of this section, the [<sup>F329</sup>appropriate authority]—
  - (a) shall satisfy [<sup>F330</sup>itself] that the person who is seeking the consent has taken appropriate steps to consult every tenant of any dwelling proposed to be disposed of; and
  - (b) shall have regard to the responses of any such tenants to that consultation.
- <sup>F331</sup>(6) .....
- (7) No consent shall be required under [<sup>F332</sup>section 148 or 172 of the Housing and Regeneration Act 2008,][<sup>F333</sup>section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985] for any disposal in respect of which consent is given [<sup>F334</sup>under this section].
- (8) Where the title of the new town corporation to the dwelling which is transferred by the initial transfer is not registered, and the initial transfer is a [<sup>F335</sup>transfer or grant] of a description mentioned in [<sup>F336</sup>section 4 of the Land Registration Act 2002] (compulsory registration of title)—
  - <sup>F337</sup>(a) .....
  - (b) the corporation shall give the approved person a certificate in a form approved by the Chief Land Registrar stating that the corporation is entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the initial transfer is effected or summarised in the certificate; and
  - (c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the [<sup>F338</sup>Land Registration Act 2002] the corporation by whom the initial transfer was made is liable to indemnify him.
- [<sup>F339</sup>(9) Where the Chief Land Registrar approves an application for registration of—
  - (a) a disposition of registered land, or
  - (b) a person’s title under a disposition of unregistered land,
 and the instrument effecting the initial transfer contains the statement required by subsection (3) above, he shall enter in the register a restriction reflecting the limitation under this section on subsequent disposal.]
- (10) In this section—
  - (a) “dwelling” and “new town corporation” have the same meaning as in section 172 above; and
  - (b) “secure tenancy” has the meaning assigned by section 79 of the <sup>M155</sup>Housing Act 1985.

**Textual Amendments**

**F326** Words in s. 173(1)(a) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 191(4)(a)**, 325(1) (with s. 189); S.I. 2010/862, art. 2 (with Sch.)

**F327** S. 173(1A) inserted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 191(4)(b)**, 325(1) (with s. 189); S.I. 2010/862, art. 2 (with Sch.)

**F328** Words in s. 173(1A)(a) substituted (1.4.2010) by [The Housing and Regeneration Act 2008 \(Registration of Local Authorities\) Order 2010 \(S.I. 2010/844\)](#), art. 1(2), **Sch. 2 para. 22**

**F329** Words in s. 173(5) substituted (1.4.2010) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 191(4)(c)**, 325(1) (with s. 189); S.I. 2010/862, art. 2 (with Sch.)

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- F330** Word in s. 173(5)(a) substituted (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 191(4)(d)**, 325(1) (with s. 189); S.I. 2010/862, art. 2 (with Sch.)
- F331** S. 173(6) repealed (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 191(4)(e)**, 325(1), **Sch. 16** (with s. 189); S.I. 2010/862, arts. 2, 3 (with Sch.)
- F332** Words in s. 173(7) inserted (1.4.2010) by The Housing and Regeneration Act 2008 (Consequential Provisions) Order 2010 (S.I. 2010/866), art. 1(2), **Sch. 2 para. 77** (with Sch. 3)
- F333** Words in s. 173(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(b)**
- F334** Words in s. 173(7) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 76(1)(3)** (with **ss. 137(1)**, 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**
- F335** Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(a)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F336** Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F337** S. 173(8)(a) repealed (1.4.1998) by 1997 c. 2, s. 4(2), **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2(c)**
- F338** Words in s. 173(8)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(c)** (with s. 129); S.I. 2003/1725, art. 2(1)
- F339** S. 173(9) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(3)** (with s. 129); S.I. 2003/1725, art. 2(1)

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

- C110** S. 173: transfer of functions (1.4.2010) by Housing and Regeneration Act 2008 (c. 17), **ss. 190(c)**, 325(1) (with s. 189); S.I. 2010/862, art. 2 (with Sch.)

**Marginal Citations**

- M154** 1988 c.50.  
**M155** 1985 c. 68.

**F340** **174** .....

**Textual Amendments**

- F340** S. 174 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19**, Pt. IX; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)

**175 Repeal of the Town Development Act 1952.**

No undertaking shall be given under section 2 or 4 of the <sup>M156</sup>Town Development Act 1952 (Government and local authority contributions for the purposes of town development), and no payment shall be made in pursuance of any such undertaking, at any time after 31st March 1990; and that Act shall cease to have effect except for the purposes of any town development (within the meaning of that Act) in relation to which any undertaking has been given before that date under section 2 of that Act.

**Marginal Citations**

- M156** 1952 c.54.

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

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## 176 Amendment of definition of occupation for purposes of purchase of house by secure tenant: Scotland.

(1) In section 61(10) of the <sup>M157</sup>Housing (Scotland) Act 1987 (definition of occupation of house for purposes of purchase by secure tenant)—

- (a) in paragraph (a)(v) (occupation by member of tenant’s family succeeding to tenancy may be treated, at discretion of landlord, as occupation for purposes of right to buy) the words “in the discretion of the landlord” shall be omitted; and
- (b) in paragraph (b) (rules for determining period of occupation) there shall be added at the end—

“and

- (iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.”.

(2) This section does not apply in any case where the application to purchase the house under section 63(2) of that Act has been served before the coming into force of this section.

### Marginal Citations

M157 1987 c. 26.

## [<sup>F341</sup>177 Sale to secure tenants of houses provided for persons of pensionable age: Scotland.

In section 69 of the Housing (Scotland) Act 1987 (Secretary of State’s power to authorise refusal to sell certain houses provided for persons of pensionable age) after subsection (1) there shall be inserted the following subsection—

“(1A) This section applies only to houses first let on a secure tenancy before 1st January 1990.”]

### Textual Amendments

**F341** S. 177 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

## 178 Application of secure tenant’s right to buy to cases where landlord is lessee: Scotland.

[<sup>F342</sup>(1) In section 76 of the Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants)—

- (a) in subsection (1)(a)—
  - (i) for the word “not” there shall be substituted the word “neither”; and
  - (ii) after the word “house” there shall be inserted the words “nor holds the interest of the landlord under a registered lease of the house or of land which includes it”;

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- (b) in subsection (2) for the words “heritable proprietor of the house” there shall be substituted the words “ either the heritable proprietor of the house or the holder of the interest of the landlord under a registered lease of the house or of land which includes it ”; and
- (c) in subsection (3)(b) at the end there shall be inserted the words “ or a local authority is the holder of the interest of the landlord under a registered lease of the house or of land which includes it. ”]

(2) After section 84 of that Act there shall be inserted the following section—

**“84A Application of right to buy to cases where landlord is lessee.**

- (1) Sections 61 to 84 (but not 76 or 77) and 216 (the “right to buy” provisions) shall, with the modifications set out in this section, apply so as to provide for—
  - (a) the acquisition by the tenant of a house let on a secure tenancy of the landlord’s interest in the house as lessee under a registered lease of the house or of land which includes it or as assignee of that interest; and
  - (b) the obtaining of a loan by the tenant in that connection,as these sections apply for the purposes of the purchase of a house by the tenant from the landlord as heritable proprietor of it and the obtaining by the tenant of a loan in that connection.
- (2) References in the right to buy provisions to the purchase or sale of a house shall be construed respectively as references to the acquisition or disposal of the landlord’s interest in the house by way of a registered assignation of that interest and cognate expressions shall be construed accordingly.
- (3) The reference in section 61(2)(b) to the landlord’s being the heritable proprietor of the house shall be construed as a reference to the landlord’s being the holder of the interest of the lessee under a registered lease of the house or of land which includes it.
- (4) References in the right to buy provisions to the market value of or price to be paid for a house shall be construed respectively as references to the market value of the landlord’s interest in the house and to the price to be paid for acquiring that interest.
- (5) References in section 64(1) to the tenant’s enjoyment and use of a house as owner shall be construed as references to his enjoyment and use of it as assignee of the landlord’s interest in the house.
- (6) The reference in subsection (4) of section 64 to an option being offered to the landlord or to any other person to purchase the house in advance of its sale to a third party shall be construed as a reference to an option being offered to have the interest acquired by the tenant re-assigned to the landlord or assigned to the other person in advance of its being disposed of to a third party; and the references in subsection (5) and (9) of that section to an option to purchase shall be construed accordingly.
- (7) In this section and section 76—
  - “registered lease” means a lease—
    - (a) which is recorded in the general register of sasines; or
    - (b) in respect of which the interest of the lessee is registered in the Land Register of Scotland

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under the Registration of Leases (Scotland) Act 1857; and  
“registered assignment” means, in relation to such a lease, an assignment thereof which is so recorded or in respect of which the interest of the assignee has been so registered.”

**Textual Amendments**

**F342** S. 178(1) repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

**[<sup>F343</sup>179 Amendment of powers of Scottish Homes to dispose of land.**

- (1) In section 2 of the <sup>M158</sup>Housing (Scotland) Act 1988 (which, amongst other things, enables Scottish Homes to dispose of land)—
  - (a) in subsection (2) (powers of Scottish Homes), after “(3)” there shall be inserted “ and (3A) ”;
  - (b) in subsection (3)(b)—
    - (i) after “above” there shall be inserted the words “, other than the power under paragraph (h) to dispose of land, ”; and
    - (ii) for the word “with” where secondly occurring there shall be substituted the words “ between it and ”;
  - (c) after subsection (3) there shall be inserted the following subsection—
 

“(3A) The power conferred by subsection (2)(h) above upon Scottish Homes to dispose of land may be exercised only with the consent of the Secretary of State (which consent may be given in relation to particular cases or classes of case and may be made subject to conditions).”; and
  - (d) subsection (6) (certain land not to be disposed of, without consent, for less than best price) shall be omitted.]

**Textual Amendments**

**F343** S. 179 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

**Marginal Citations**

**M158** 1988 c. 43.

**[<sup>F344</sup>180 Race relations: codes of practice in housing field.**

.....

**Textual Amendments**

**F344** S. 180 repealed (1.10.2007) by Equality Act 2006 (c. 3), s. 93(1), Sch. 4 (with s. 92); S.I. 2007/2603, art. 2(d)



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[<sup>F345</sup>**181 Duty of landlord to inform secure tenant seeking to buy house about changes in law: Scotland.**

In section 76 of the <sup>M159</sup>Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants) there shall be added at the end the following subsections—

“(4) Where—

- (a) by way of any enactment (including an enactment made under this Act), any change is to be made in the law relating to the calculation of the price at which the tenant of a house is entitled under this Act to purchase it, being a change which does not come into force upon the passing or making of that enactment but which, when it does come into force will affect the price of the house, and
- (b) the house is one in respect of which an application to purchase has, in the period ending with the coming into force of the change, been served under section 63(1) and not withdrawn but no contract of sale of the house has been constituted under section 66(2),

the landlord shall, upon the passing or making of that enactment or, if later, upon the service of the application to purchase, forthwith give written notice to the tenant stating the nature of the change and how it will affect the price and suggesting that the tenant should seek appropriate advice.

- (5) For the purposes of subsection (4), a change in the law will affect the price of a house if, on the day it falls to be calculated under the law as changed, the price will be different from what it would have been that day had there been no such change.”]

**Textual Amendments**

**F345** S. 181 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, art. 2, Sch. (with arts. 3-5)

**Marginal Citations**

**M159** 1987 c. 26.

*Other provisions*

[<sup>F346</sup>**182** .....

**Textual Amendments**

**F346** S. 182 repealed (1.10.1996) by 1996 c. 52, s. 227, Sch. 19 Pt. I; S.I. 1996/2402, art. 3 (subject to transitional provisions and savings in Sch.)



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### **183 Extension of powers of Housing Corporation and Housing for Wales to give financial assistance.**

For section 87 of the <sup>M160</sup>Housing Associations Act 1985 (grants towards expenses in promoting or assisting registered housing associations) there shall be substituted the following section—

#### **“87 Financial assistance with respect to formation, management, etc. of certain housing associations.**

- (1) The Corporation may give financial assistance to any person in respect of the following activities—
  - (a) promoting and giving advice on the formation of registered housing associations and co-operative housing associations (in this section referred to collectively as “relevant associations”);
  - (b) managing, providing services for, and giving advice on the running of, relevant associations; and
  - (c) assisting tenants and licensees of a relevant association to take part in the management of the association or of some or all of the dwellings provided by the association.
- (2) Assistance under this section may be in the form of grants, loans, guarantees or incurring expenditure for the benefit of the person assisted or in such other way as the Corporation considers appropriate, except that the Corporation may not, in giving any form of financial assistance, purchase loan or share capital in a company.
- (3) With respect to financial assistance under this section, the following—
  - (a) the procedure to be followed in relation to applications for assistance,
  - (b) the circumstances in which assistance is or is not to be given,
  - (c) the method for calculating, and any limitations on, the amount of assistance, and
  - (d) the manner in which, and the time or times at which, assistance is to be given,
 shall be such as may be specified by the Corporation, acting in accordance with such principles as it may from time to time determine.
- (4) In giving assistance under this section, the Corporation may provide that the assistance is conditional upon compliance by the person to whom the assistance is given with such conditions as it may specify.
- (5) Where assistance under this section is given in the form of a grant, subsections (1), (2) and (7) to (9) of section 52 of the Housing Act 1988 (recovery, etc. of grants) shall apply as they apply in relation to a grant to which that section applies, but with the substitution, for any reference in those subsections to the registered housing association to which the grant has been given, of a reference to the person to whom assistance is given under this section.
- (6) Section 53 of the Housing Act 1988 (determinations under Part II) shall apply in relation to a determination under this section as it applies to a determination under sections 50 to 52 of that Act.”

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**Marginal Citations**

M160 1985 c. 69.

**184 Extension of functions of Audit Commission.**

(1)

F347F348(2) .....

(3)<sup>F347</sup>

**Textual Amendments**

F347 S. 184(1)(3) repealed by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10

F348 S. 184(2) repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5

**185 Publication of reports of Controller of Audit: Scotland.**

In section 102 of the <sup>M161</sup>Local Government (Scotland) Act 1973 (reports to Commission for Local Authority Accounts by Controller of Audit)—

- (a) in subsections (1) and (2) there shall, in each case, be added at the end the words “ and may send a copy of any report so made to any other person he thinks fit” ”; and
- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of that copy report to each member of the authority and make additional copies available for public inspection.”

**Marginal Citations**

M161 1973 c. 65.

**186 Security of tenure on ending of long residential tenancies.**

- (1) Schedule 10 to this Act shall have effect (in place of Part I of the <sup>M162</sup>Landlord and Tenant Act 1954) to confer security of tenure on certain tenants under long tenancies and, in particular, to establish assured periodic tenancies when such long tenancies come to an end.
- (2) Schedule 10 to this Act applies, and section 1 of the Landlord and Tenant Act 1954 does not apply, to a tenancy of a dwelling-house—
  - (a) which is a long tenancy at a low rent, as defined in Schedule 10 to this Act; and
  - (b) which is entered into on or after the day appointed for the coming into force of this section, otherwise than in pursuance of a contract made before that day.
- (3) If a tenancy—

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- (a) is in existence on 15th January 1999, and
  - (b) does not fall within subsection (2) above, and
  - (c) immediately before that date was, or was deemed to be, a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954,
- then, on and after that date (and so far as concerns any notice specifying a date of termination on or after that date and any steps taken in consequence thereof), section 1 of that Act shall cease to apply to it and Schedule 10 to this Act shall apply to it unless, before that date, the landlord has served a notice under section 4 of that Act specifying a date of termination which is earlier than that date.
- (4) The provisions of Schedule 10 to this Act have effect notwithstanding any agreement to the contrary, but nothing in this subsection or that Schedule shall be construed as preventing the surrender of a tenancy.
  - (5) Section 18 of the Landlord and Tenant Act 1954 (duty of tenants of residential property to give information to landlords or superior landlords) shall apply in relation to property comprised in a long tenancy at a low rent, within the meaning of Schedule 10 to this Act, as it applies to property comprised in a long tenancy at a low rent within the meaning of Part I of that Act, except that the reference in that section to subsection (1) of section 3 of that Act shall be construed as a reference to sub-paragraph (1) of paragraph 3 of Schedule 10 to this Act.
  - (6) Where, by virtue of subsection (3) above, Schedule 10 to this Act applies to a tenancy which is not a long tenancy at a low rent as defined in that Schedule, it shall be deemed to be such a tenancy for the purposes of that Schedule.

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

C111 S. 186 modified by S.I. 1990/776, arts. 2(2), 5(2)(b)

**Marginal Citations**

M162 1954 c. 56.

**187 Construction industry: grants and guarantees.**

- (1) The Secretary of State may, for the purpose of promoting or facilitating the carrying on of any of the activities specified in subsection (2) below, do one or both of the following, that is to say—
  - (a) make grants to any person who carries on any such activities;
  - (b) guarantee the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with sums borrowed temporarily by any such person.
- (2) The activities mentioned in subsection (1) above are—
  - (a) the assessment of, and of applications of, materials, products, systems and techniques used or proposed for use in the construction industry; and
  - (b) the issue of certificates, promotion of common standards and publication of information with respect to any such materials, products, systems or techniques.
- (3) The consent of the Treasury shall be required for the exercise by the Secretary of State of his power under this section to make a grant or give a guarantee; but, subject to that

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consent and to the following provisions of this section, that power shall be a power to make a grant or give a guarantee in such manner and on such conditions as he thinks fit.

- (4) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.
- (5) Where any sums are paid out in fulfilment of a guarantee given under this section in respect of any person's borrowing, that person shall make to the Secretary of State, at such times and in such manner as the Secretary of State may, with the consent of the Treasury, from time to time direct—
  - (a) payments, of such amounts as the Secretary of State may so direct, in or towards repayment of those sums; and
  - (b) payments of interest, at such rate as the Secretary of State may so direct, on what is outstanding for the time being in respect of those sums.
- (6) As soon as possible after the end of any financial year in which—
  - (a) any sums are paid out in fulfilment of a guarantee given under this section, or
  - (b) any liability in respect of the principal of sums so paid out, or in respect of interest on any such sums, is outstanding,

the Secretary of State shall lay before each House of Parliament a statement relating to the sums.

#### **188 Repeal of s. 2 of the Education (Grants and Awards) Act 1984.**

Section 2 of the <sup>M163</sup>Education (Grants and Awards) Act 1984 (limit on expenditure approved for grant purposes) shall not apply in relation to any expenditure approved for the financial year beginning with 1st April 1990 or any subsequent financial year.

#### **Marginal Citations**

**M163** 1984 c. 11.

#### **F349 189 .....**

#### **Textual Amendments**

**F349** S. 189 repealed (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), s. 101(2), [Sch.13](#); S.I. 1992/333, art. 2(2), [Sch.2](#)

### *Supplementary*

#### **190 Regulations.**

- (1) Under any power to make regulations conferred by any provision of this Act, different provision may be made for different cases and different descriptions of cases (including different provision for different areas).
- (2) Any power to make regulations conferred by any provision of this Act shall be exercisable by statutory instrument which, except in the case of a statutory instrument

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containing regulations under section 150 or section 151 or Schedule 10, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **191 Separate provisions for Wales.**

- (1) Where any provision of this Act which extends to England and Wales confers (directly or by amendment of another Act) a power on the Secretary of State to make regulations, orders, rules or determinations or to give directions or specify any matter, the power may be exercised differently for England and Wales, whether or not it is exercised separately.
- (2) This section is without prejudice to section 190(1) above and to any other provision of this Act or of any Act amended by this Act by virtue of which powers may be exercised differently in different cases or in any other circumstances.

### **192 Financial provisions.**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any sums required for the payment by the Secretary of State of grants, subsidies or contributions under this Act;
  - (b) any sums required by the Secretary of State for fulfilling any guarantees under this Act;
  - (c) any other expenses of the Secretary of State under this Act; and
  - (d) any increase attributable to this Act in the sums so payable under any other enactment.
- (2) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

### **193 Application to Isles of Scilly.**

- (1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.
- (2) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **194 Amendments and repeals.**

- (1) Schedule 11 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.
- (2) The enactments specified in Part I of Schedule 12 to this Act, which relate to or are superseded by the provisions of Part IV of this Act, are hereby repealed to the extent specified in the third column of that Schedule; and the Secretary of State may by order made by statutory instrument make provision (in consequence of the said Part IV) amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act.

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- (3) In subsection (2) above “Act” includes a private or local Act and a statutory instrument by which the power in that subsection is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The other enactments specified in Part II of Schedule 12 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of that Schedule.

#### Commencement Information

- I9** S. 194(1), partly in force; s. 194(1) in force for certain purposes at 27.2.1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(1), **Sch.**  
S. 194(1) partly in force; s. 194(1) in force for certain purposes at 1.4.1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**  
S. 194(1) partly in force; s. 194(1) in force at 1.4.1991 so far as it relates to Sch. 11 para. 113, see s. 195(2) and S.I. 1991/953, **art. 2**  
S. 194(1) partly in force: s. 194(1) in force at 8.5.1992 so far as it relates to Sch. 11 para. 30, see s. 195(2) and S.I. 1992/760, **art. 2**  
S. 194(1) partly in force: s. 194(1) in force at 25.1.1993 so far as it relates to Sch. 11 para. 14, see s. 195(2) and S.I. 1993/105, **art. 2**
- I10** S. 194(4) partly in force; s. 194(4) in force for certain purposes at 1.4.1991 see s. 195(2)(3) and S. I. 1991/344, art. 3(2)(b), **Sch.**

#### 195 Short title, commencement and extent.

- (1) This Act may be cited as the Local Government and Housing Act 1989.
- (2) The provisions of sections 1 and 2, 9, 10, 13 to 20 above, Parts II to V (with the exception in Part II of section 24), VII and VIII and (in this Part) sections 140 to 145, 156, 159, 160, 162, 164, 165, [<sup>F350</sup>168] to 173, 175 to 180, 182 and 183, 185, 186 and 194, except in so far as it relates to paragraphs 104 to 106 of Schedule 11, shall come into force 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 or for different purposes.
- (3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.
- (4) Subject to subsection (5) below, this Act, except Parts I and II and sections 36(9), 140 to 145, 150 to 152, 153, 155, 157, 159, 161, 166, 168, 170, 171, 176 to 182, 185, 190, 192, 194(1), 194(4) and this section, extend to England and Wales only.
- (5) Notwithstanding anything in subsection (4) above, any provision of Schedule 11 or Part II of Schedule 12 to this Act which amends or repeals any provision of the following enactments does not extend to Scotland—
  - (a) the <sup>M164</sup>Military Lands Act 1892;
  - (b) the <sup>M165</sup>Local Authorities (Expenditure Powers) Act 1983.
- (6) This Act does not extend to Northern Ireland.

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#### **Textual Amendments**

**F350** Word in s. 195(2) substituted (14.7.2005 for W., 6.4.2006 for E.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5)(f), [Sch. 15 para. 35](#); S.I. 2005/1814, arts. 1(2), 2(f)(iii); S.I. 2006/1060, art. 2(1)(d) (with [Sch.](#))

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

**C112** Power of appointment conferred by s. 195(2) partly exercised: [S.I. 1989/2180](#), 2186, 2445, 1990/191, 431, 762, 961, 1274, 1335, 1552, 2581

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#### **Marginal Citations**

**M164** 1892 c. 43.

**M165** 1983 c. 52.



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## SCHEDULES

### SCHEDULE 1

Section 15.

#### POLITICAL BALANCE ON LOCAL AUTHORITY COMMITTEES ETC.

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

**C113** Sch. 1 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 57 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2

##### Commencement Information

**III** Sch. 1 partly in force; Sch. 1 not in force at Royal Assent see s. 195(2); Sch. 1 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, art. 4; Sch. 1 in force at 1.8.1990 as it applies in relation to England and Wales and in so far as it is not already in force by S.I. 1990/1552, art. 3.

#### *Bodies to which section 15 applies*

- 1 Subject to such exceptions as may be prescribed by regulations made by the Secretary of State, section 15 of this Act applies, in relation to any relevant authority or committee of a relevant authority—
- (a) to any ordinary committee or ordinary sub-committee of the authority;
  - (b) to any advisory committee of the authority and to any sub-committee appointed by such an advisory committee; and
  - (c) to any such body falling within paragraph 2 below as is a body at least three seats on which fall from time to time to be filled by appointments made by the authority or committee.
- 2 (1) For the purposes of paragraph 1 above, in its application in relation to relevant authorities in England and Wales or the committees of such authorities, a body falls within this paragraph if it is a body of any of the following descriptions, that is to say—
- (a) a relevant authority which is a local authority of any of the descriptions specified in [<sup>F351</sup>paragraphs (f) or (h) to [<sup>F352</sup>(j)] of section 21(1) of this Act;
  - (b) a local authority of any of the descriptions specified in [<sup>F353</sup>paragraphs (k), <sup>F354</sup>. . . and (n)] of section 21(1) of this Act;
  - [<sup>F355</sup>(ba) a National Park authority;]
  - [<sup>F356</sup>(bb) a conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000;]
  - [<sup>F357</sup>(bc) an inshore fisheries and conservation authority for a district established under section 149 of the Marine and Coastal Access Act 2009;]
  - <sup>F358</sup>(c) . . . . .
  - <sup>F359</sup>(d) . . . . .
  - (e) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M166</sup>Superannuation Act 1972 (regulations making

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provision for the superannuation of persons employed in local government service etc.);

- <sup>F360</sup>(f) .....
- (g) a board or committee appointed by one or more relevant authorities in exercise of a power conferred by a local enactment, being a board or committee seats on which are required to be filled by the appointment of members of that authority or of those authorities;
- (h) a joint committee not falling within sub-paragraphs (a) to (g) above appointed by two or more relevant authorities under section 102(1)(b) of the <sup>M167</sup>Local Government Act 1972.

(2) For the purposes of paragraph 1 above, in its application in relation to relevant authorities in Scotland or to the committees of such authorities, a body falls within this paragraph if it is—

- (a) a joint board within the meaning of section 235(1) of the <sup>M168</sup>Local Government (Scotland) Act 1973;
- (b) a board or committee appointed by one or more relevant authorities in exercise of a power conferred by a local enactment, being a board or committee seats on which are required to be filled by the appointment of members of that authority or of those authorities;
- (c) a joint committee appointed by two or more relevant authorities under section 57(1)(b) of the Local Government (Scotland) Act 1973.

#### Textual Amendments

- F351** Words in Sch. 1 para. 2(1)(a) substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 44(a)**; S.I. 1994/2025, **art. 6(1)(2)(g)**; S.I. 1994/3262, art. 4, **Sch.** (subject to transitional provision in art. 5)
- F352** Word in Sch. 1 para. 2(1)(a) substituted (17.12.2009) by *Local Democracy, Economic Development and Construction Act 2009 (c. 20)*, s. 148(6), **Sch. 6 para. 81(8)(a)**; S.I. 2009/3318, art. 2(c)
- F353** Words in Sch. 1 para. 2(1)(b) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(5)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1995/2950, **art. 2**
- F354** Word “(m)” in Sch. 1 para. 2(1)(b) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1996/2560, art. 2, **Sch.**
- F355** Sch. 1 para. 2(1)(ba) inserted (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 2(8)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- F356** Sch. 1 para. 2(1)(bb) inserted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 86(2), **Sch. 13 para. 4(7)** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**
- F357** Sch. 1 para. 2(1)(bc) inserted (1.10.2010) by *Marine and Coastal Access Act 2009 (c. 23)*, s. 324(3), **Sch. 14 para. 15**; S.I. 2010/2195, art. 3(2)(l)
- F358** Sch. 1 para. 2(1)(c) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. 1**; S.I. 1994/3262, art. 4, **Sch.** (subject to transitional provision in art. 5)
- F359** **Sch. 1 para. 2(1)(d)** repealed (1.4.2010 for W., 1.4.2011 for E.) by *Marine and Coastal Access Act 2009 (c. 23)*, s. 324(3), **Sch. 22 Pt. 4**; S.I. 2010/630, art. 3(b) (with arts. 8, 12); S.I. 2011/556, art. 2(2)(o) (with art. 2(3))
- F360** Sch. 1 para. 2(1)(f) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**); S.I. 1996/2560, art. 2, **Sch.**

#### Marginal Citations

- M166** 1972 c. 11.  
**M167** 1972 c. 70.

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M168 1973 c.65.

*Construction of sections 15 to 17*

- 3 (1) The Secretary of State may, for the purposes of sections 15 and 16 of this Act, by regulations make provision—
- (a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;
  - (b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;
  - (c) requiring the question whether a person is or is not a member of a political group to be determined in such manner as may be provided for by or under the regulations;
  - (d) specifying the manner in which, and times at which, the wishes of such a group are to be expressed and the consequences of a failure by such a group to express its wishes.
- (2) Regulations under this paragraph may make provision modifying the provisions of sections 15 and 16 of this Act in relation to any case in which some of the members of a relevant authority fall to be treated as members of one or more political groups and the others do not.
- 4 (1) In sections 15 to 17 of this Act and this Schedule—
- “advisory committee”, in relation to a relevant authority, means a committee appointed by the authority under section 102(4) of the <sup>M169</sup>Local Government Act 1972 or section 57(4) of the <sup>M170</sup>Local Government (Scotland) Act 1973 (advisory committees);
- <sup>F361</sup> . . .
- “membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority, disregarding any person who is treated as continuing to be a member of the authority by virtue of section 3(3) of the Local Government Act 1972 (chairman to continue as a member until replaced);
- “ordinary committee”—
- (a) in relation to any relevant authority in England and Wales, means [<sup>F362</sup>any committee] of the authority appointed under section 102(1) (a) of the Local Government Act 1972, not being a body to which section 15 of this Act applies by virtue of paragraph 2 above; and
  - (b) in relation to any relevant authority in Scotland, means <sup>F363</sup>. . . any committee of the authority appointed under section 57(1)(a) of the Local Government (Scotland) Act 1973;
- “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in [<sup>F364</sup>paragraphs (a) to (c), (f) or (h) to [<sup>F365</sup>(j)]] of section 21(1) of this Act; and
  - (b) in relation to Scotland, means a local authority;
- and

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“seat”, in relation to a body to which section 15 of this Act applies, means such a position as a member of that body as—

- (a) entitles the person holding the position to vote at meetings of the body on any question which falls to be decided at such a meeting; and
- (b) in the case of a position as member of an advisory committee or of a sub-committee appointed by an advisory committee, is not a position which the authority or committee have determined must be filled by the appointment of a person who is not a member of the authority.

(2) In this Schedule—

“ordinary sub-committee”—

- (a) in relation to any relevant authority in England and Wales, means any sub-committee of the authority’s<sup>F366</sup> . . . social services committee or any other sub-committee of that authority appointed under section 102(1)(c) of the<sup>M171</sup> Local Government Act 1972 by an ordinary committee of that authority; and
- (b) in relation to any relevant authority in Scotland, means any sub-committee of an ordinary committee;

F367  
 ...  
 F368  
 . . .

(3) References in this paragraph to voting include references to making use of a casting vote.

#### Textual Amendments

- F361** Sch. 1 para. 4(1): definition of “education committee” repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 157(a)(ii), **Sch. 21 Pt. 2**; S.I. 1994/507, **art. 4 Sch. 2**
- F362** Words in Sch. 1 para. 4(1) substituted (E.W.) (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004** (c. 31), **ss. 55(4)**, 67(7)(e); S.I. 2005/394, **art. 2(2)(f)**; S.I. 2006/885, **art. 2(e)**
- F363** Sch. 1 para. 4(1): words in definition of “ordinary committee” repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(d)**, **Sch. 2**
- F364** Sch. 1 para. 4(1): words in definition of “relevant authority” substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 44(b)**; S.I. 1994/2025, **art. 6(1)(2)(g)**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to transitional provision in art. 5)
- F365** Word in Sch. 1 para. 4(1) substituted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009** (c. 20), s. 148(6), **Sch. 6 para. 81(8)(b)**; S.I. 2009/3318, **art. 2(c)**
- F366** Sch. 1 para. 4(2): words in definition of “ordinary sub-committee” repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 157(b), **Sch. 21 Pt. 2**; S.I. 1994/507, **art. 4 Sch. 2**
- F367** Words in Sch. 1 para. 4(2) repealed (E.W.) (1.4.2005 for E., 1.4.2006 for W.) by **Children Act 2004** (c. 31), **Sch. 5 Pt. 4**; S.I. 2005/394, **art. 2(2)(g)**; S.I. 2006/885, **art. 2(h)**
- F368** Sch. 1 para. 4(2): definition of “social work committee” and the word “and” immediately preceding it repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(d)**, **Sch. 2**

#### Marginal Citations

- M169** 1972 c. 70.  
**M170** 1973 c. 65.  
**M171** 1972 c. 70.

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### *Supplemental regulation making power*

- 5 Regulations under section 15 or 17 of this Act or under this Schedule may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

PROSPECTIVE

## SCHEDULE 2

Section 36.

### LOCAL GOVERNMENT ACT 1972, SECTION 137, AS AMENDED

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

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

- (a) for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment; nor
- (b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred.

(1A) In any case where—

- (a) by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and
- (b) the power or duty of the authority to incur expenditure for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),

the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitation or condition.

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

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

(2D) In subsection (2C) above—

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

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

- (3) A local authority may, subject to the following provisions of this section, incur expenditure on contributions to any of the following funds, that is to say—
- (a) the funds of any charitable body in furtherance of its work in the United Kingdom; or
  - (b) the funds of any body which provides any public service (whether to the public as a whole or to any section of it) in the United Kingdom otherwise than for the purposes of gain; or
  - (c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by the Lord Mayor of London or the chairman of a principal council or by a committee of which the Lord Mayor of London or the chairman of a principal council is a member or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973.
- (4) The expenditure of a local authority under this section in any financial year shall not exceed the amount produced by multiplying—
- (a) such sum as is for the time being appropriate to the authority under subsection (4AA) below, by
  - (b) the relevant population of the authority’s area.
- (4AA) For the purposes of subsection (4)(a) above, except in so far as the Secretary of State by order specifies a different sum in relation to an authority of a particular description,—
- (a) the sum appropriate to a county council or the council of a non-metropolitan district is £2.50;
  - (b) the sum appropriate to a metropolitan district council, a London borough council or the Common Council is £5.00; and
  - (c) the sum appropriate to a parish or community council is £3.50.
- (4AB) For the purposes of subsection (4)(b) above the relevant population of a local authority’s area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.
- (4B) The amounts mentioned in subsection (4A) above are—
- (a) the amount of any expenditure which forms part of the authority’s gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure);
  - (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;



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- (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure;
  - (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the [F369EU], in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section;
  - (e) the amount of any repayment in that year of a loan under this section made by the authority in any year; and
  - (f) the amount of any expenditure—
    - (i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State; or
    - (ii) which is incurred by the authority in that year and is of a description so specified; or
    - (iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.
- (5) A statutory instrument containing an order under this section may apply to all local authorities or may make different provision in relation to local authorities of different descriptions.
- (6) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The accounts of a local authority by whom expenditure is incurred under this section shall include a separate account of that expenditure, and section 24 of the Local Government Finance Act 1982 (rights of inspection) shall apply in relation to any such separate account of a local authority as it applies in relation to any statement of accounts prepared by them pursuant to regulations under section 23 of that Act.
- (9) In this section “local authority” includes the Common Council.”

#### Textual Amendments

**F369** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011](#) (S.I. 2011/1043), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

### F370 SCHEDULE 3

Sections 56, 58, 62 and 63.

#### PROVISIONS SUPPLEMENTING PART IV

#### Textual Amendments

**F370** Sch. 3 repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by [Local Government Act 2003](#) (c. 26), s. 128(6), Sch. 8 Pt. 1; [S.I. 2003/2938](#), art. 7(e)(iii) (with art. 8, Sch.); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I (with Sch. 2 para. 2)



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**PART I**

EFFECT OF OVERSPEND IN 1989-90 ON CREDIT APPROVALS

- F370<sub>1</sub> .....
- F370<sub>2</sub> .....
- F370<sub>3</sub> .....
- F370<sub>4</sub> .....
- F370<sub>5</sub> .....

**PART II**

NON-MONETARY CONSIDERATION RECEIVED BEFORE APRIL 1990

- F370<sub>6</sub> .....
- F370<sub>7</sub> .....

**PART III**

CREDIT CEILING

- F370<sub>8</sub> .....
- F370<sub>9</sub> .....
- F370<sub>10</sub> .....
- F370<sub>11</sub> .....
- F370<sub>12</sub> .....
- F370<sub>13</sub> .....
- F370<sub>14</sub> .....

**PART IV**

MINIMUM REVENUE PROVISION

- F370<sub>15</sub> .....
- F370<sub>16</sub> .....
- F370<sub>17</sub> .....
- F370<sub>18</sub> .....
- F370<sub>19</sub> .....
- F370<sub>20</sub> .....

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## SCHEDULE 4

Section 75.

### THE KEEPING OF THE HOUSING REVENUE ACCOUNT

#### <sup>F371</sup>PART I

#### CREDITS TO THE ACCOUNT

##### Textual Amendments

**F371** Sch. 4 Pt. 1 Item 9 substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 7 para. 33\(3\)](#); [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#) (with [Sch. 2 para. 5](#))

For each year a local housing authority who are required to keep a Housing Revenue Account (“the account”) shall carry to the credit of the account amounts equal to the items listed in this Part of this Schedule.

##### *Item 1: rents*

The income of the authority for the year from rents and charges in respect of houses and other property within the account.

This item includes rent remitted by way of rebate.

##### *Item 2: charges for services and facilities*

The income of the authority for the year in respect of services or facilities provided by them in connection with the provision by them of houses and other property within the account—

(a) including income in respect of services or facilities provided under sections 10 and 11 of the <sup>M172</sup>Housing Act 1985 (power to provide furniture, board and laundry facilities); but

(b) not including payments for the purchase of furniture or hire-purchase instalments for furniture.

##### Marginal Citations

[M172 1985 c. 68.](#)

If the Secretary of State so directs, this item shall include, or not include, such income as may be determined by or under the direction [<sup>F372</sup>or income in respect of services provided under section 11A of that Act (power to provide welfare services)].

##### Textual Amendments

**F372** Sch. 4 Pt. 1 shall have effect, and be deemed always to have had effect as if words in item 2 para. (b) were inserted, by [1993 c. 28](#), [ss.127\(a\)](#), [128](#)

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Item 3: Housing Revenue Account subsidy*

Housing Revenue Account subsidy payable to the authority for the year.

*Item 4: contributions towards expenditure*

Contributions of any description payable to the authority for the year towards expenditure falling to be debited to the account (for that or any other year).

If the Secretary of State so directs, this item shall not include so much of any such contributions as may be determined by or under the direction.

<sup>F373</sup> *Item 5: housing benefit transfers*

**Textual Amendments**

**F373** Sch. 4 Pt. 1 Item 5 repealed (1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), s. 128(3)(e)(f), Sch. 7 para. 33(2), [Sch. 8 Pt. 1](#); S.I. 2003/2938, [art. 6\(d\)\(e\)\(i\)\(i\)](#) (with art. 8, Sch.)

...

*Item 6: transfers from the Housing Repairs Account*

Sums transferred for the year from the authority's Housing Repairs Account in accordance with section 77(5) of this Act (credit balance for year).

*Item 7: reduced provision for bad or doubtful debts*

The following, namely—

- (a) any sums debited to the account for a previous year under paragraph (a) of item 7 of Part II of this Schedule which have been recovered by the authority during the year; and
- (b) any amount by which, in the opinion of the authority, any provision debited to the account for a previous year under paragraph (b) of that item should be reduced.

If the Secretary of State so directs, no sums shall be credited under paragraph (a) above, and no amount shall be credited under paragraph (b) above, except (in either case) in such circumstances and to such extent as maybe specified in the direction.

*Item 8: sums calculated as determined by Secretary of State*

Sums calculated for the year in accordance with such formulae as the Secretary of State may from time to time determine.

In determining any formula for the purposes of this item, the Secretary of State may include variables framed (in whatever way he considers appropriate) by reference to such matters relating to the authority, or to (or to tenants of) houses and other property which are or have been within the account, as he thinks fit.

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*[<sup>F371</sup>Item 9: sums directed by Secretary of State or National Assembly for Wales]*

<sup>F371</sup>Any sums which for the year the authority is required, by reason of a direction given by the appropriate person, to carry to the credit of the account from some other revenue account of theirs.

A direction under this item may require the transfer of sums calculated in accordance with formulae specified in the direction, and any formula so specified may include variables framed (in whatever way the appropriate person considers appropriate) by reference to such matters as the appropriate person thinks fit.]

*Item 10: credit balance from previous year*

Any credit balance shown in the account for the previous year.

This item does not include so much of any such balance so shown as is carried to the credit of some other revenue account of the authority in accordance with paragraph 1 or 2 of Part III of this Schedule.

## PART II

### DEBITS TO THE ACCOUNT

For each year a local housing authority who are required to keep a Housing Revenue Account (“the account”) shall carry to the debit of the account amounts equal to the items listed in this Part of this Schedule.

*Item 1: expenditure on repairs, maintenance and management*

The expenditure of the authority for the year in respect of the repair, maintenance, supervision and management of houses and other property within the account, but not including expenditure properly debited to the authority’s Housing Repairs Account.

If the Secretary of State so directs, this item shall include, or not include, such expenditure as may be determined by or under the direction.

*[<sup>F374</sup>Item 2: capital expenditure*

**Textual Amendments**

**F374** Sch. 4 Pt. 2 Item 2 substituted (1.4.2004) by [The Local Authorities \(Capital Finance\) \(Consequential, Transitional and Saving Provisions\) Order 2004 \(S.I. 2004/533\)](#), arts. 1, 4

Any expenditure of the authority in respect of houses and other property within the account—

- (a) which is capital expenditure for the year; and
- (b) which the authority decide should be charged to a revenue account for the year.

In this item “capital expenditure” means expenditure which is capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (capital finance).]

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### *Item 3: rents, rates, taxes and other charges*

The rents, rates, taxes and other charges which the authority are liable to pay for the year in respect of houses and other property within the account.

### <sup>F375</sup> *Item 4: rent rebates*

#### **Textual Amendments**

**F375** Sch. 4 Pt. 2 Item 4 repealed (1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), s. 128(3)(e)(f), Sch. 7 para. 33(4), [Sch. 8 Pt. 1](#); S.I. 2003/2938, [art. 6\(d\)\(e\)\(i\)\(i\)](#) (with [art. 8](#), Sch.)

...

### <sup>F376</sup> *Item 5: sums payable under section 80ZA*

#### **Textual Amendments**

**F376** Sch. 4 Pt. II Item 5 substituted (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004, and 1.4.2004 for E.) by [Local Government Act 2003 \(c. 26\)](#), [ss. 90\(3\)](#), [128\(6\)](#); S.I. 2003/2938, [art. 7\(a\)](#) (with [art. 8](#), Sch.); S.I. 2003/3034, [art. 2](#), Sch. 1 Pt. I

Sums payable for the year to the Secretary of State, or the National Assembly for Wales, under subsection (1)(b) of section 80ZA of this Act (Housing Revenue Account subsidy of a negative amount) and—

- (a) any interest charged on those sums under subsection (4) of that section, and
- (b) any amount charged under subsection (5) of that section in respect of costs incurred as a result of late payment of any of those sums.]

### *Item 6: contributions to Housing Repairs Account*

Sums transferred for the year to the authority's Housing Repairs Account.

### *Item 7: provision for bad or doubtful debts*

The following, namely—

- (a) any sums credited to the account for the year or any previous year under item 1 or 2 of Part I of this Schedule which, in the opinion of the authority, are bad debts which should be written off; and
- (b) any provision for doubtful debts which, in their opinion, should be made in respect of sums so credited.

If the Secretary of State so directs, no sums shall be debited under paragraph (a) above, and no provision shall be debited under paragraph (b) above, except (in either case) in such circumstances and to such extent as maybe specified in the direction.

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*Item 8: sums calculated as determined by Secretary of State*

Sums calculated for the year in accordance with such formulae as the Secretary of State may from time to time determine.

In determining any formula for the purposes of this item, the Secretary of State may include variables framed (in whatever way he considers appropriate) by reference to such matters relating to the authority, or to (or to tenants of) houses or other property which are or have been within the account, as he thinks fit.

*Item 9: debit balance from previous year*

Any debit balance shown in the account for the previous year.

This item does not include any such balance so shown which is carried to the debit of some other revenue account of the authority in accordance with paragraph 1 of Part III of this Schedule.

<sup>F377</sup>*Item 10: sums directed by Secretary of State or National Assembly for Wales*

**Textual Amendments**

**F377** Sch. 4 Pt. 2 Item 10 inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 7 para. 33\(5\)](#); [S.I. 2003/2938](#), [art. 3\(a\)](#) (with [art. 8](#), [Sch.](#)); [S.I. 2003/3034](#), [art. 2](#), [Sch. 1 Pt. I](#)

Any sums which for the year the authority is required, by reason of a direction given by the appropriate person, to carry from the account to the credit of some other revenue account of theirs.

A direction under this item may require the transfer of sums calculated in accordance with formulae specified in the direction, and any formula so specified may include variables framed (in whatever way the appropriate person considers appropriate) by reference to such matters as the appropriate person thinks fit.

In giving a direction under this item, the appropriate person may (in particular) take into account the effect of such a direction on—

- (a) other revenue accounts in the authority's relevant fund,
- (b) the amounts of council tax falling to be set by the authority under section 30 of the Local Government Finance Act 1992, and
- (c) the authority's budget requirement under section 32(4) of that Act.

In this item the reference to the authority's "relevant fund" is—

- (a) in relation to England, to the authority's general fund within the meaning of section 91(2) of the Local Government Finance Act 1988, and
- (b) in relation to Wales, to the authority's council fund within the meaning of section 38(1) of the Local Government (Wales) Act 1994.]

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### PART III

#### SPECIAL CASES

##### *Balance for year 1989-90*

- 1 (1) The following, namely—
- (a) any debit balance shown in a local housing authority's Housing Revenue Account for the year beginning 1st April 1989;
  - (b) so much of any credit balance so shown as exceeds the limit mentioned in sub-paragraph (2) below,
- shall be carried forward and debited or credited, as the case may require, not to their Housing Revenue Account for the year beginning 1st April 1990 but to some other revenue account of theirs for that year.
- (2) The limit referred to in sub-paragraph (1) above is £150 multiplied by the number of dwellings in the authority's Housing Revenue Account on 31st March 1990 or £5 million, whichever is the lesser amount.

##### *Credit balance where no HRA subsidy payable*

- 2 <sup>F378</sup>(1) A local housing authority to whom no Housing Revenue Account subsidy is payable for any year may carry the whole or part of any credit balance shown in their Housing Revenue Account for that year to the credit of some other revenue account of theirs.
- <sup>F379</sup>(2) Sub-paragraph (1) does not apply to a local housing authority in respect of a year if, by virtue of section 80B(2), sections 79 to 80A do not apply in relation to the authority for that year.]

#### **Textual Amendments**

**F378** Sch. 4 Pt. 3 para. 2 renumbered as Sch. 4 Pt. 3 para. 2(1) (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 313(3)(a), 325(2)(a)**

**F379** Sch. 4 Pt. 3 para. 2(2) inserted (22.9.2008) by [Housing and Regeneration Act 2008 \(c. 17\)](#), **ss. 313(3)(b), 325(2)(a)**

##### *Amenities shared by the whole community*

- 3 (1) Where benefits or amenities—
- (a) arising from the exercise of a local housing authority's functions under Part II of the <sup>M173</sup>Housing Act 1985 (provision of housing); and
  - (b) provided for persons housed by the authority,
- are shared by the community as a whole, the authority shall make such contributions to their Housing Revenue Account from some other revenue account of theirs as, having regard to the amounts of the contributions and the period over which they are made, will properly reflect the community's share of the benefits or amenities.
- (2) The Secretary of State may give such directions as he considers appropriate as to the performance by local housing authorities of their duty under sub-paragraph (1) above.



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- (3) Where it appears to the Secretary of State that an authority have failed to comply with sub-paragraph (1) above or any directions under sub-paragraph (2) above, he may give them such directions as appear to him appropriate to ensure compliance.
- (4) A direction under sub-paragraph (3) above may contain particulars as to the amounts of the contributions and the years for which they are to be made.

#### Marginal Citations

M173 1985 c. 68.

*[<sup>F380</sup> Provision of welfare services]*

#### Textual Amendments

**F380** Sch. 4 Pt. 3 shall have effect, and be deemed always to have had effect as if paragraph 3A and crossheading were inserted after paragraph 3, by 1993 c. 28, ss. 127(b), 128

- <sup>F381</sup>3A (1) This paragraph applies where in any year a local housing authority provide welfare services (within the meaning of section 11A of the <sup>M174</sup>Housing Act 1985) for persons housed by them in houses or other property within their Housing Revenue Account.
- (2) The authority may carry to the credit of the account—
    - (a) an amount equal to the whole or any part of the income of the authority for the year from charges in respect of the provision of those services;
    - (b) any sum from some other revenue account of theirs which represents the whole or any part of that income.
  - (3) The authority may carry to the debit of the account—
    - (a) an amount equal to the whole or any part of the expenditure of the authority for the year in respect of the provision of those services;
    - (b) any sum from some other revenue account of theirs which represents the whole or any part of that expenditure.

#### Textual Amendments

**F381** Sch. 4 Pt. 3 shall have effect, and be deemed always to have had effect as if paragraph 3A and crossheading were inserted at the end of paragraph 3, by 1993 c. 28, ss. 127(b), 128

#### Marginal Citations

M174 1985 c. 68.

*Land disposed of at less than market value*

- 4 The Secretary of State in giving his consent under any enactment for the disposal at less than market value of land within their Housing Revenue Account may impose a condition requiring the authority to make a contribution to the account from some other revenue account of theirs for such years and of such amount, or of any amount calculated in such manner, as he may determine.

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*Adjustment of accounts on appropriation of land*

- 5 (1) Where land is appropriated by a local housing authority for the purposes of Part II of the <sup>M175</sup>Housing Act 1985 (provision of housing), or on the discontinuance of use for those purposes, such adjustment shall be made in the Housing Revenue Account, the Housing Repairs Account and other revenue accounts of the authority as the Secretary of State may direct.
- (2) Except where sub-paragraph (1) above applies, any direction given under section 24 of the <sup>M176</sup>Town and Country Planning Act 1959 (adjustment of accounts on appropriation of land) concerning the Housing Revenue Account of a local housing authority shall apply in relation to the account to be kept under section 74 of this Act as it would have applied to the account to be kept under section 50 of the <sup>M177</sup>Housing (Financial Provisions) Act 1958.

**Marginal Citations**

**M175** 1985 c. 68.

**M176** 1959 c. 53.

**M177** 1958 c. 42.

*Transfers of housing stock between authorities in London*

- 6 (1) Where houses and other property within the Housing Revenue Account have been transferred from one authority to another under section 23(3) of the <sup>M178</sup>London Government Act 1963 (orders transferring land held by London borough council or Common Council of City of London), the Secretary of State may by order direct, for any of the purposes of this Part of this Act—
- (a) within whose Housing Revenue Account the transferred houses and property are to be treated as falling; and
  - (b) how relevant items are to be treated in the Housing Revenue Accounts of the authorities to whom the order applies.
- (2) The order may be made to apply to a description of local housing authorities specified in the order or to a specified local housing authority, and may make different provision in respect of different years or for different purposes in relation to the same year.
- (3) An order under this paragraph may amend an order made under section 23(3) of the London Government Act 1963 and may provide that one authority shall pay to another in respect of houses and property to which it relates such amounts calculated by such methods and in respect of such items and such years as appear to the Secretary of State to be appropriate.
- (4) An order under this paragraph—
- (a) shall be made by the Secretary of State with the concurrence of the Treasury, and
  - (b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Before making an order under this paragraph, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate; and, before

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making an order applying to a particular local housing authority, he shall consult that authority.

**Marginal Citations**  
M178 1963 c. 33.

*Contributions in respect of land in certain areas*

- 7 Where a contribution under—
- (a) section 259 of the Housing Act 1985 (contributions by Secretary of State towards expenditure on general improvement area); or
  - (b) section 96 of this Act (contributions by Secretary of State towards expenditure on renewal area),
- has been paid towards expenditure incurred by a local housing authority in relation to land held by them for the purposes of Part II of that Act (provision of housing), neither the expenditure nor the contribution shall be carried to the Housing Revenue Account except with the consent of the Secretary of State.

**PART IV**

SUPPLEMENTARY PROVISIONS

*Duty to supply information*

- 1 (1) A local housing authority, and any officer or employee of a local housing authority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to ascertain the state or likely state of the authority's Housing Revenue Account for any year.
- (2) A local housing authority shall supply the Secretary of State with such certificates supporting the information required by him as he may specify.

*Directions excluding or modifying statutory provisions*

- 2 (1) The Secretary of State may, as respects any houses or other property within the Housing Revenue Account, direct that all or any of the provisions of this Part of this Act relating to the account shall not apply, or shall apply subject to such modifications as may be specified in the direction.
- (2) The Secretary of State may direct that the provisions of this Part of this Act relating to the Housing Revenue Account shall apply to a local housing authority subject to such modifications as are specified in the direction.
- (3) A direction may be given for such period and subject to such conditions as may be specified in the direction.

*Orders amending statutory provisions*

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**Textual Amendments**  
F382 Sch. 4 Pt. 4 para. 3 repealed (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), ss. 91(2), 128(2), [Sch. 8 Pt. 1](#)

SCHEDULE 5

Section 139.

LOCAL GOVERNMENT FINANCE ACT 1988: AMENDMENTS

*Introduction*

1 The <sup>M179</sup>Local Government Finance Act 1988 shall be amended as mentioned in the following provisions of this Schedule.

**Marginal Citations**  
M179 1988 c. 41.

*Community charges*

F383<sub>2</sub> .....

**Textual Amendments**  
F383 Sch. 5 paras. 2-18 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), [Sch.14](#) (with s. 118(1)(2)(4)); [S.I. 1992/2454](#), [art.3](#)

F384<sub>3</sub> .....

**Textual Amendments**  
F384 Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14](#) s. 117(2), [Sch.14](#) (with s. 118(1)(2)(4)); [S.I. 1992/2454](#), [art.3](#)

F385<sub>4</sub> .....

**Textual Amendments**  
F385 Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14](#) s. 117(2), [Sch. 14](#) (with s. 118(1)(2)(4)); [S.I. 1992/2454](#), [art. 3](#)

F386<sub>5</sub> .....

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**Textual Amendments**

**F386** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch.14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art. 3](#)

F387 6 .....

**Textual Amendments**

**F387** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch.14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art. 3](#)

F388 7 .....

**Textual Amendments**

**F388** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch.14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art.3](#)

F389 8 .....

**Textual Amendments**

**F389** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch. 14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art. 3](#)

F390 9 .....

**Textual Amendments**

**F390** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch.14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art.3](#)

F391 10 .....

**Textual Amendments**

**F391** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch. 14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art. 3](#)

F392 11 .....

**Textual Amendments**

**F392** Sch. 5 paras. 2-18 repealed (1.4.1993) by [1992 c. 14 s. 117\(2\)](#), Sch. 14 (with s. 118(1)(2)(4)); [S.I. 1992/2454, art. 3](#)

F393 12 .....

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**Textual Amendments**  
**F393** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

F394 13 .....

**Textual Amendments**  
**F394** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art.3

*Charges and multipliers*

F395 14 .....

**Textual Amendments**  
**F395** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

F396 15 .....

**Textual Amendments**  
**F396** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

F397 16 .....

**Textual Amendments**  
**F397** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art.3

F398 17 .....

**Textual Amendments**  
**F398** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

F399 18 .....

**Textual Amendments**  
**F399** Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

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### *Non-domestic rating*

- 19 In section 41 (local rating lists) the following subsections shall be inserted after subsection (6)—
- “(6A) As soon as is reasonably practicable after compiling a list the valuation officer shall send a copy of it to the authority.
- (6B) As soon as is reasonably practicable after receiving the copy the authority shall deposit it at its principal office.”
- 20 In section 42 (contents of local lists) in subsection (4) for paragraphs (a) and (b) there shall be substituted “ the rateable value of the hereditament ”.
- 21 (1) Section 44 (occupied hereditaments: supplementary) shall be amended as follows.
- (2) In subsection (2) the words from “or” to the end shall be omitted.
- (3) Subsection (3) shall be omitted.
- 22 The following section shall be inserted after section 44—

#### **“44A Partly occupied hereditaments.**

- (1) Where a hereditament is shown in a charging authority’s local non-domestic rating list and it appears to the authority that part of the hereditament is unoccupied but will remain so for a short time only the authority may require the valuation officer for the authority to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament and to certify the apportionment to the authority.
- (2) The reference in subsection (1) above to the rateable value of the hereditament is a reference to the rateable value shown under section 42(4) above as regards the hereditament for the day on which the authority makes its requirement.
- (3) For the purposes of this section an apportionment under subsection (1) above shall be treated as applicable for any day which—
- (a) falls within the operative period in relation to the apportionment, and
- (b) is a day for which the rateable value shown under section 42(4) above as regards the hereditament to which the apportionment relates is the same as that so shown for the day on which the authority requires the apportionment.
- (4) References in this section to the operative period in relation to an apportionment are references to the period beginning—
- (a) where requiring the apportionment does not have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day on which the hereditament to which the apportionment relates became partly unoccupied, and
- (b) where requiring the apportionment does have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day immediately following the end of that period,

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and ending with the first day on which one or more of the events listed below occurs.

- (5) The events are—
- (a) the occupation of any of the unoccupied part of the hereditament to which the apportionment relates;
  - (b) the ending of the rate period in which the authority requires the apportionment;
  - (c) the requiring of a further apportionment under subsection (1) above in relation to the hereditament to which the apportionment relates;
  - (d) the hereditament to which the apportionment relates becoming completely unoccupied.
- (6) Subsection (7) below applies where—
- (a) a charging authority requires an apportionment under subsection (1) above, and
  - (b) the hereditament to which the apportionment relates does not fall within a class prescribed under section 45(1)(d) below.
- (7) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—
- (2) A is such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament.
- (2A) In subsection (2) above “the relevant apportionment” means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.
- (8) Subsection (9) below applies where—
- (a) a charging authority requires an apportionment under subsection (1) above, and
  - (b) the hereditament to which the apportionment relates falls within a class prescribed under section 45(1)(d) below.
- (9) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—
- (2) A is the sum of—
- (a) such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament, and
  - (b) one half of such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament.
- (2A) In subsection (2) above “the relevant apportionment” means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.
- (10) References in subsections (1) to (5) above to the hereditament, in relation to a hereditament which is partly domestic property or partly exempt from



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local non-domestic rating, shall, except where the reference is to the rateable value of the hereditament, be construed as references to such part of the hereditament as is neither domestic property nor exempt from local non-domestic rating.”

- 23 (1) Section 45 (unoccupied hereditaments: liability) shall be amended as follows.
- (2) In subsection (1)(d) for “description” there shall be substituted “ class ”.
- (3) The following subsections shall be inserted after subsection (8)—
- “(9) For the purposes of subsection (1)(d) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (10) Without prejudice to the generality of subsection (9) above, a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of hereditaments;
- (b) the fact that hereditaments have been unoccupied at any time preceding the day mentioned in subsection (1) above;
- (c) the fact that the owners of hereditaments fall within prescribed descriptions.”
- 24 In section 46 (unoccupied hereditaments: supplementary) in subsection (2) the words from “or” to the end shall be omitted.
- 25 The following section shall be inserted after section 46—

**“46A Unoccupied hereditaments: new buildings.**

- (1) Schedule 4A below (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.
- (2) Where—
- (a) a completion notice is served under Schedule 4A below, and
- (b) the building to which the notice relates is not completed on or before the relevant day,
- then for the purposes of section 42 above and Schedule 6 below the building shall be deemed to be completed on that day.
- (3) For the purposes of subsection (2) above the relevant day in relation to a completion notice is—
- (a) where an appeal against the notice is brought under paragraph 4 of Schedule 4A below, the day stated in the notice, and
- (b) where no appeal against the notice is brought under that paragraph, the day determined under that Schedule as the completion day in relation to the building to which the notice relates.
- (4) Where—
- (a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and
- (b) the building is not occupied on that day,
- it shall be deemed for the purposes of section 45 above to become unoccupied on that day.

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(5) Where—

- (a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and
- (b) the building is one produced by the structural alteration of an existing building,

the hereditament which comprised the existing building shall be deemed for the purposes of section 45 above to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this section—

- (a) “building” includes part of a building, and
- (b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.”

- 26 (1) Section 47 (discretionary relief) shall be amended as follows.
- (2) In subsection (1)(b) for “regulations under section 57 below or regulations under section 58 below” there shall be substituted “ regulations under section 58 below or any provision of or made under Schedule 7A below ”.
- (3) In subsection (5) for “57 or 58 below” there shall be substituted “ 58 below and of any provision of or made under Schedule 7A below ”.
- 27 In section 49 (reduction or remission of liability) in subsection (3) for the words from “and the effect” to the end of the subsection there shall be substituted “ , the effect of any regulations under section 58 below, and the effect of any provision of or made under Schedule 7A below. ”
- 28 In section 52 (central rating lists) the following subsections shall be inserted after subsection (6)—
- “(6A) As soon as is reasonably practicable after compiling a list the central valuation officer shall send a copy of it to the Secretary of State.
- (6B) As soon as is reasonably practicable after receiving the copy the Secretary of State shall deposit it at his principal office.”
- 29 (1) Section 53 (contents of central lists) shall be amended as follows.
- (2) In subsection (1) for “a description” there shall be substituted “ one or more descriptions ”.
- (3) In subsection (2)(b) for “the” there shall be substituted “ any ”.
- (4) For subsection (4) there shall be substituted the following subsections—
- “(4) Where regulations are for the time being in force under this section prescribing a description of non-domestic hereditament in relation to a person designated in the regulations (“the previously designated person”), amending regulations altering the designated person in relation to whom that description of hereditament is prescribed may have effect from a date earlier than that on which the amending regulations are made.

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(4A) Where, by virtue of subsection (4) above, the designated person in relation to any description of non-domestic hereditament is changed from a date earlier than the making of the regulations,—

- (a) any necessary alteration shall be made with effect from that date to a central non-domestic rating list on which any hereditament concerned is shown; and
- (b) an order making the provision referred to in paragraph 3(2) of Schedule 6 below and specifying a description of hereditament by reference to the previously designated person shall be treated, with effect from that date, as referring to the person designated by the amending regulations.”

30 (1) Section 55 (alteration of lists) shall be amended as follows.

(2) In subsection (4) (content of regulations)—

- (a) in paragraph (b) after “as to the” there shall be inserted “ manner and ” and at the end there shall be added “ and the information to be included in a proposal ”;
- (b) in paragraph (d) for “making” there shall be substituted “ and subsequent to the making of ”; and
- (c) after paragraph (d) there shall be inserted—
  - “(dd) as to the circumstances within which and the conditions upon which a proposal may be withdrawn”.

(3) In subsection (5) (regulations about appeals), for the words from “about” to “its alteration” there shall be substituted “between a valuation officer and another person making a proposal for the alteration of a list—

- (a) about the validity of the proposal; or
- (b) about the accuracy of the list”.

<sup>F400</sup>(4) .....

(5) The following subsection shall be inserted after subsection (7)—

“(7A) The regulations may include provision that—

- (a) where a valuation officer for a charging authority has informed the authority of an alteration of a list a copy of which has been deposited by the authority under section 41(6B) above, the authority must alter the copy accordingly;
- (b) where the central valuation officer has informed the Secretary of State of an alteration of a list a copy of which has been deposited under section 52(6B) above, the Secretary of State must alter the copy accordingly.”

#### Textual Amendments

**F400** Sch. 5 para. 30(4) repealed (1.8.1992) by [Local Government Finance Act 1992 \(c. 14\), s. 119\(2\)](#), [Sch. 14](#); S.I. 1992/1755, [art. 2\(1\)](#)

31 The following section shall be substituted for section 57 (special provision for 1990-95)—

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**“57 Special provision for 1990-95.**

Schedule 7A below (which contains special provision for 1990–95) shall have effect.”

32 The following section shall be substituted for section 59—

**“59 Contributions in aid.**

Where a contribution in aid of non-domestic rating is made in respect of a Crown hereditament, the contribution shall be paid to the Secretary of State.”

F401 33 .....

**Textual Amendments**  
F401 Sch. 5 para. 33 repealed (1.4.2000) by 1997 c. 29, s. 33(2), Sch. 4; S.I. 1998/2329, art. 3

34 In section 65 (owners and occupiers) the following subsection shall be inserted after subsection (8)—

“(8A) In a case where—

- (a) land consisting of a hereditament is used (permanently or temporarily) for the exhibition of advertisements or for the erection of a structure used for the exhibition of advertisements,
- (b) section 64(2) above does not apply, and
- (c) apart from this subsection, the hereditament is not occupied,

the hereditament shall be treated as occupied by the person permitting it to be so used or, if that person cannot be ascertained, its owner.”

35 (1) Section 67 (interpretation etc.) shall be amended as follows.

F402 (2) .....

(3) The following subsection shall be inserted after subsection (9) (power to show class of hereditament in central non-domestic rating list)—

“(9A) In subsection (9) above “class” means a class expressed by reference to whether hereditaments—

- (a) are occupied or owned by a person designated under section 53(1) above, and
- (b) fall within any description prescribed in relation to him under section 53(1).”

**Textual Amendments**  
F402 Sch. 5 para. 35(2) repealed (1.4.2000) by 1997 c. 29, ss. 33(2), 34(1), Sch. 4; S.I. 1998/2329, art. 3

36 The following Schedule shall be inserted after Schedule 4—

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“SCHEDULE  
4A

NON-DOMESTIC RATING: NEW BUILDINGS (COMPLETION DAYS)

*Completion notices*

- 1 (1) If it comes to the notice of a charging authority that the work remaining to be done on a new building in its area is such that the building can reasonably be expected to be completed within 3 months, the authority shall serve a notice under this paragraph on the owner of the building as soon as is reasonably practicable unless the valuation officer otherwise directs in writing.
- (2) If it comes to the notice of a charging authority that a new building in its area has been completed, the authority may serve a notice under this paragraph on the owner of the building unless the valuation officer otherwise directs in writing.
- (3) A charging authority may withdraw a notice under this paragraph by serving on the owner of the building to which the notice relates a subsequent notice under this paragraph.
- (4) Where an appeal under paragraph 4 below has been brought against a notice under this paragraph, the power conferred by sub-paragraph (3) above shall only be exercisable with the consent in writing of the owner of the building to which the notice relates.
- (5) The power conferred by sub-paragraph (3) above shall cease to be exercisable in relation to a notice under this paragraph once a day has been determined under this Schedule as the completion day in relation to the building to which the notice relates.
- (6) In this Schedule “completion notice” means a notice under this paragraph.
- 2 (1) A completion notice shall specify the building to which it relates and state the day which the authority proposes as the completion day in relation to the building.
- (2) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is not completed, the authority shall propose as the completion day such day, not later than 3 months from and including the day on which the notice is served, as the authority considers is a day by which the building can reasonably be expected to be completed.
- (3) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is completed, the authority shall propose as the completion day the day on which the notice is served.

*Determination of completion day*

- 3 (1) If the person on whom a completion notice is served agrees in writing with the authority by whom the notice is served that a day specified by the agreement shall be the completion day in relation to the building, that day shall be the completion day in relation to it.

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- (2) Where such an agreement as is mentioned in sub-paragraph (1) above is made, the completion notice relating to the building shall be deemed to have been withdrawn.
- 4 (1) A person on whom a completion notice is served may appeal to a valuation and community charge tribunal against the notice on the ground that the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the day stated in the notice.
- (2) Where a person appeals against a completion notice and the appeal is not withdrawn or dismissed, the completion day shall be such day as the tribunal shall determine.
- 5 Where a completion notice is not withdrawn and no appeal under paragraph 4 above is brought against the notice or any appeal under that paragraph is dismissed or withdrawn, the day stated in the notice shall be the completion day in relation to the building.

*Position pending appeal*

- 6 (1) Where an appeal under paragraph 4 above is brought against a completion notice, then in relation to any day on which the appeal is pending section 45 above shall apply by virtue of section 46A(4) above as if the day stated in the notice had been determined under this Schedule as the completion day in relation to the building to which the notice relates.
- (2) The Secretary of State may make regulations providing for the making of financial adjustments where sub-paragraph (1) applies but the day stated in the completion notice is not actually determined as the completion day in relation to the building to which the notice relates.
- (3) Regulations under sub-paragraph (2) above may include—
  - (a) provision requiring payments to be made,
  - (b) provision requiring payments to be made together with payments of interest, and
  - (c) provision as to the recovery (by deduction or otherwise) of sums due.
- (4) For the purpose of deciding, for the purposes of this paragraph, whether an appeal is pending on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.

*Duty to inform valuation officer*

- 7 (1) A charging authority shall supply to the valuation officer a copy of any completion notice served by it.
- (2) If a charging authority withdraws a completion notice, it shall inform the valuation officer of that fact.
- (3) A charging authority shall supply the valuation officer with details of any agreement to which it is a party and by virtue of which a completion day is determined under this Schedule in relation to a building.

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### Supplementary

- 8 Without prejudice to any other mode of service, a completion notice may be served on a person—
- (a) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;
  - (b) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter or by the recorded delivery service addressed to the secretary or clerk of the company or body at that office; or
  - (c) where the name or address of that person cannot be ascertained after reasonable inquiry, by addressing it to him by the description of “owner” of the building (describing it) to which the notice relates and by affixing it to some conspicuous part of the building.
- 9 (1) This paragraph applies in the case of a building to which work remains to be done which is customarily done to a building of the type in question after the building has been substantially completed.
- (2) It shall be assumed for the purposes of this Schedule that the building has been or can reasonably be expected to be completed at the end of such period beginning with the date of its completion apart from the work as is reasonably required for carrying out the work.
- 10 (1) Section 46A(6) applies for the purposes of this Schedule.
- (2) In this Schedule—
- “completion notice” has the meaning given by paragraph 1(6) above;
- “owner”, in relation to a building, means the person entitled to possession of the building;
- references to the valuation officer, in relation to a charging authority, are references to the valuation officer for the authority.”
- 37 (1) Schedule 5 (exemptions) shall be amended as follows.
- (2) In paragraph 7 (agricultural buildings) in each of sub-paragraphs (1)(b) <sup>F403</sup> ..., for “(together with the body)” there shall be substituted “ or are together with the body ”.
- (3) In paragraph 9 (exemption for fish farms) the following shall be inserted after sub-paragraph (4)—
- “(4A) But an activity does not constitute fish farming if the fish or shell fish are or include fish or shellfish which—
- (a) are purely ornamental, or
  - (b) are bred, reared or cultivated for exhibition.”
- (4) After paragraph 18 there shall be inserted—

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*“ Road crossings over watercourses etc.*

- 18A(1) A hereditament which is occupied (as mentioned in section 65 of this Act) is exempt to the extent that it consists of, or of any of the appurtenances of, a fixed road crossing over an estuary, river or other watercourse.
- (2) For the purposes of this paragraph, a fixed road crossing means a bridge, viaduct, tunnel or other construction providing a means for road vehicles or pedestrians or both to cross the estuary, river or other watercourse concerned.
- (3) For the purposes of sub-paragraph (2) above—
- (a) a bridge may be a fixed road crossing notwithstanding that it is designed so that part of it can be swung, raised or otherwise moved in order to facilitate passage across, above or below it; but
  - (b) the expression “bridge” does not include a floating bridge, that is to say, a ferry operating between fixed chains.
- (4) The reference in sub-paragraph (1) above to the appurtenances of a fixed road crossing is a reference to—
- (a) the carriageway and any footway thereof;
  - (b) any building, other than office buildings, used in connection with the crossing; and
  - (c) any machinery, apparatus or works used in connection with the crossing or with any of the items mentioned in paragraphs (a) and (b) above.”

**Textual Amendments**

**F403** Words in Sch. 5 para. 37(2) repealed (18.11.2003 for E. and 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 8 Pt. 1](#); S.I. 2003/2938, art. 3(i)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

- 38 (1) Schedule 6 shall be amended as follows.
- (2) In paragraph 1 the words “, and parts of them,” shall be omitted.
- (3) In paragraph 2, in sub-paragraph (1) after “non-domestic hereditament” there shall be inserted “ none of which consists of domestic property and none of which is exempt from local non-domestic rating ”.
- (4) In paragraph 2, the following sub-paragraphs shall be inserted after sub-paragraph (1)
- 
- “(1A) The rateable value of a composite hereditament none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of sub-paragraph (1) above, would reasonably be attributable to the non-domestic use of property.
- (1B) The rateable value of a non-domestic hereditament which is partially exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of sub-paragraph (1) above, would, as regards the



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part of the hereditament which is not exempt from local non-domestic rating, be reasonably attributable to the non-domestic use of property.”

- (5) In paragraph 2, in sub-paragraph (6) for the words from “day the alteration” to the end there shall be substituted “material day.”
- (6) In paragraph 2, the following sub-paragraph shall be inserted after sub-paragraph (6)
- 
- “(6A) For the purposes of sub-paragraph (6) above—
- (a) where the determination is occasioned by a proposal for an alteration disputing the accuracy of a previous alteration to the list, the material day is the day by reference to which the matters mentioned in sub-paragraph (7) below fell to be assessed when determining the rateable value with a view to making the disputed alteration;
  - (b) where the determination is occasioned by any proposal for an alteration other than one disputing the accuracy of a previous alteration to the list, the material day is the day the proposal is made;
  - (c) where the determination is occasioned otherwise than by a proposal for an alteration, the material day is the day the alteration is entered in the list.”
- (7) In paragraph 2, in sub-paragraph (7) after paragraph (c) there shall be inserted—
- “(cc) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,”.
- (8) In paragraph 2, in sub-paragraph (8) for “description” there shall be substituted “class”.
- (9) In paragraph 2, in sub-paragraph (9) after “(1)” there shall be inserted “, (1A) or (1B)”.
- (10) In paragraph 2, the following sub-paragraphs shall be inserted after sub-paragraph (10)—
- “(11) For the purposes of sub-paragraph (8) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.
- (12) Without prejudice to the generality of sub-paragraph (11) above, a class may be prescribed by reference to one or more of the following factors—
- (a) the physical characteristics of hereditaments;
  - (b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.
- (13) In this paragraph references to the non-domestic use of property are references to use otherwise than in such a manner as to constitute the property domestic property.”
- (11) The following paragraphs shall be inserted after paragraph 2—
- “2A (1) This paragraph applies to any hereditament the whole or any part of which consists in buildings which are—
- (a) used for the breeding and rearing of horses or ponies or for either of those purposes; and
  - (b) are occupied together with any agricultural land or agricultural building.

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- (2) The rateable value of any hereditament to which this paragraph applies shall be taken to be the amount determined under paragraph 2 above less whichever is the smaller of the following amounts—
- (a) such amount as the Secretary of State may by order specify for the purposes of this paragraph; and
  - (b) the amount which but for this paragraph would be determined under paragraph 2 above in respect of so much of the hereditament as consists of buildings so used and occupied.

- (3) In this paragraph—

“agricultural land” means any land of more than two hectares which is agricultural land within the meaning of paragraph 2 of Schedule 5 above and is not land used exclusively for the pasturing of horses or ponies; and

“agricultural building” shall be construed in accordance with paragraphs 3 to 7 of that Schedule.

- 2B (1) This paragraph applies where—

- (a) the rateable value of a hereditament consisting of an area of a caravan site is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force),
- (b) the area is treated as one hereditament by virtue of regulations under section 64(3)(b),
- (c) immediately before the day the alteration is entered in the list or (if the alteration is made in pursuance of a proposal) the day the proposal is made, the list includes a hereditament consisting of an area of the caravan site treated as one hereditament by virtue of such regulations, and
- (d) the area mentioned in paragraph (b) above and the area mentioned in paragraph (c) above are wholly or partly the same.

- (2) In relation to a caravan pitch which is included both in the area mentioned in sub-paragraph (1)(b) above and in the area mentioned in sub-paragraph (1)(c) above, sub-paragraph (3) below rather than paragraph 2(6) above shall apply as respects the matters mentioned in sub-paragraph (4) below.

- (3) The matters mentioned in sub-paragraph (4) below shall be taken to be as they were assumed to be for the purposes of determining the rateable value of the hereditament mentioned in sub-paragraph (1)(c) above when that rateable value was last determined.

- (4) The matters are—

- (a) the nature of the caravan on the pitch, and
- (b) the physical state of that caravan.

- (5) For the purposes of this paragraph—

“caravan” has the same meaning as it has for the purposes of Part I of the Caravan Sites and Control of Development Act 1960, and

“caravan site” means any land in respect of which a site licence is required under Part I of that Act, or would be so required if paragraph 4 and paragraph 11 of Schedule 1 to the Act (exemption of certain land occupied and supervised by organisations concerned

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with recreational activities and of land occupied by local authorities) were omitted.”

(12) In paragraph 3(1)—

- (a) for “description” there shall be substituted “ class ”, and
- (b) for “paragraph 2” there shall be substituted “ paragraphs 2 to 2B ”.

(13) In paragraph 3(2) for “paragraph 2” there shall be substituted “ paragraphs 2 to 2B ”.

(14) In paragraph 3, the following sub-paragraphs shall be inserted after sub-paragraph (2)

—  
“(3) For the purposes of sub-paragraph (1) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.

(4) Without prejudice to the generality of sub-paragraph (3) above, a class may be prescribed by reference to one or more of the following factors—

- (a) the physical characteristics of hereditaments;
- (b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.”

(15) Paragraph 4 shall be omitted.

39 (1) Schedule 7 (multipliers) shall be amended as follows.

(2) In paragraph 7(1) for the words from “Regulations” to “that” there shall be substituted “ In relation to a relevant financial year the Secretary of State may make regulations providing that ”.

(3) In paragraph 8(3) for “section 57” there shall be substituted “ paragraph 7 ”.

(4) In paragraph 9(4) (certain orders ineffective unless in force before 1 January) for “January” there shall be substituted “ March ”.

(5) In paragraph 10(1) (special authority’s power to set multiplier in substitution) the words “because of a failure to fulfil paragraph 9(2) or (3) above” shall be omitted.

40 The following Schedule shall be inserted after Schedule 7—

“SCHEDULE  
7A

NON-DOMESTIC RATING: 1990-95

*Definitions*

1 (1) The transitional period is the period consisting of the financial years beginning in 1990, 1991, 1992, 1993 and 1994.

(2) A transitional day is a day falling in the transitional period.

2 (1) As regards a transitional day a hereditament is a defined hereditament if the first and second conditions are fulfilled; but this is subject to sub-paragraphs (4) and (5) below.

(2) The first condition is that the hereditament is shown for 31 March 1990 in a valuation list maintained under Part V of the 1967 Act.

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- (3) The second condition is that the hereditament is shown in a local non-domestic rating list, and a rateable value is shown in the list for the hereditament, for—
- (a) 1 April 1990,
  - (b) the transitional day (if different from 1 April 1990), and
  - (c) each day (if any) falling after 1 April 1990 and before the transitional day.
- (4) If the hereditament is not a right falling within section 64(2) above, the hereditament is not a defined hereditament as regards the transitional day unless the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990 is £500 or more.
- (5) If the hereditament is one falling within sub-paragraph (8) below, the hereditament is not a defined hereditament as regards the transitional day unless a person who is a qualifying person in relation to the hereditament as regards that day is also a person to whom sub-paragraph (6) or (7) below applies.
- (6) This sub-paragraph applies to a person if—
- (a) he occupied all or part of the hereditament on 31 March 1990, and
  - (b) he has been a qualifying person in relation to the hereditament as regards each day (if any) falling after 31 March 1990 and before the transitional day.
- (7) This sub-paragraph applies to a person if—
- (a) he was the owner of the whole of the hereditament on 31 March 1990,
  - (b) none of the hereditament was occupied on 31 March 1990,
  - (c) he occupied all or part of the hereditament on at least one day in the period beginning with 1 April 1988 and ending with 30 March 1990, and
  - (d) he has been a qualifying person in relation to the hereditament as regards each day which falls before the transitional day and falls after the last (or only) day in the period mentioned in paragraph (c) above on which he occupied all or part of the hereditament.
- (8) A hereditament falls within this sub-paragraph if, assuming it to be a defined hereditament as regards 1 April 1990, paragraph 9 below would apply to the hereditament for that day by virtue of paragraph 7 below.
- (9) For the purposes of this paragraph a person is a qualifying person in relation to a hereditament as regards a day if—
- (a) he occupies all or part of the hereditament on that day, or
  - (b) where none of the hereditament is occupied on that day, he is the owner of the whole of the hereditament on that day.
- 3 (1) The notional chargeable amount for a hereditament for each day in a relevant year shall be found by applying the formula—

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$$\frac{A \times B}{C}$$

- (2) A is the rateable value shown for the hereditament for 1 April 1990 in the local non-domestic rating list.
  - (3) Subject to sub-paragraph (4) below, B is the non-domestic rating multiplier for the relevant year concerned.
  - (4) Where the hereditament is situated in the area of a special authority, B is the authority's non-domestic rating multiplier for the relevant year concerned.
  - (5) C is the number of days in the relevant year concerned.
  - (6) Relevant years are financial years falling in the transitional period.
- 4 (1) The base liability for a hereditament for each day in the financial year beginning in 1990 shall be found by applying the formula—

$$\frac{A \times B}{C}$$

- (2) A is the rateable value of the hereditament, as determined under paragraph 6 below.
- (3) B is the general rate poundage effective for 31 March 1990 for the rating area (within the meaning of the 1967 Act) in which the hereditament is situated.
- (4) C is the number of days in the financial year beginning in 1989.
- (5) The base liability for a hereditament for each day in a relevant year (the year concerned) other than the financial year beginning in 1990 shall be found by applying the formula—

$$BL \times AF$$

- (6) Relevant years are financial years falling in the transitional period.
  - (7) BL is the base liability for the hereditament for each day in the financial year immediately preceding the year concerned.
  - (8) AF is the appropriate fraction for the hereditament for each day in the financial year immediately preceding the year concerned.
- 5 (1) Sub-paragraph (2) below applies in a case where the notional chargeable amount for a hereditament for each day in a relevant year exceeds the base liability for the hereditament for each day in the year.
- (2) The appropriate fraction for the hereditament for each day in the year shall be found by applying the formula—

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$$\frac{X}{100} \times \frac{\text{RPI}(1)}{\text{RPI}(2)}$$

- (3) X is 120 if—
- (a) the hereditament is situated in Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is £15,000 or more, or
  - (b) it is situated outside Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is £10,000 or more.
- (4) X is 115 if—
- (a) the hereditament is situated in Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is less than £15,000, or
  - (b) it is situated outside Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is less than £10,000.
- (5) RPI(1) is the retail prices index for September of the financial year preceding the relevant year concerned.
- (6) RPI(2) is the retail prices index for September of the financial year which precedes that preceding the relevant year concerned.
- (7) Sub-paragraph (8) below applies in a case where the notional chargeable amount for a hereditament for each day in a relevant year does not exceed the base liability for the hereditament for each day in the year.
- (8) The appropriate fraction for the hereditament for each day in the year shall be such as is—
- (a) specified for the case by order made by the Secretary of State, or
  - (b) found in accordance with rules prescribed for the case by order so made.
- (9) In making an order under this paragraph the Secretary of State shall have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all charging authorities by way of non-domestic rates as regards a relevant year is the same as it would in his opinion be likely to be apart from this Schedule.
- (10) Relevant years are financial years falling in the transitional period.
- 6 (1) This paragraph has effect to determine A in relation to a hereditament for the purposes of paragraph 4 above.
- (2) In a case where a rateable value is shown for the hereditament for 15 February 1989 in the old valuation list, A is the value so shown; but this is subject to sub-paragraph (3) below.
- (3) If—
- (a) a relevant proposal is (or relevant proposals are) made to alter the rateable value shown for the hereditament in that list, and

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- (b) as a result of any such proposal a rateable value is shown for the hereditament in that list for a relevant day,  
A is the rateable value shown in that list for the hereditament for the last (or only) relevant day for which a rateable value is shown as a result of any such proposal.
- (4) For the purposes of sub-paragraph (3) above a relevant proposal is a proposal—
- (a) made by a valuation officer at any time, or
  - (b) made by a person other than a valuation officer, and received by a valuation officer, before 15 February 1989.
- (5) In a case where a rateable value is not shown for the hereditament for 15 February 1989 in the old valuation list, A is the rateable value shown in that list for the hereditament for the first relevant day for which a rateable value is shown; but this is subject to sub-paragraph (6) below.
- (6) If—
- (a) a relevant proposal is (or relevant proposals are) made to alter the rateable value shown for the hereditament in that list, and
  - (b) as a result of any such proposal a rateable value is shown for the hereditament in that list for a relevant day,
- A is the rateable value shown in that list for the hereditament for the last (or only) relevant day for which a rateable value is shown as a result of any such proposal.
- (7) For the purposes of sub-paragraph (6) above a relevant proposal is a proposal made by a valuation officer at any time.
- (8) In the case of a hereditament—
- (a) occupied by or on behalf of the Crown for public purposes in the period beginning with 15 February 1989 and ending with 31 March 1990, and
  - (b) in respect of which a contribution is made by the Crown in aid of rates for that period,
- references in sub-paragraphs (2) to (6) above to rateable value are to value representing rateable value (which is required to be shown by section 37 of the 1967 Act).
- (9) For the purposes of this paragraph a relevant day is a day falling after 15 February 1989 and before 1 April 1990.
- (10) For the purposes of this paragraph the old valuation list is the valuation list, maintained under Part V of the 1967 Act, in which the hereditament is shown for 31 March 1990.

#### *Chargeable amounts*

- 7 (1) Paragraph 9 below applies to a hereditament for a transitional day (the day concerned) if—
- (a) as regards the hereditament the day concerned is a chargeable day for which a chargeable amount falls to be determined under section 43 above,

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- (b) as regards the day concerned the hereditament is a defined hereditament,
  - (c) NCA exceeds BL,
  - (d) NCA exceeds (BL x AF), and
  - (e) in a case where the day concerned is not 1 April 1990, paragraph 9 below applies to the hereditament for each transitional day preceding the day concerned, and it does so by virtue of this paragraph.
- (2) In a case where the hereditament is situated in the area of a special authority, the reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—
- (a) if the appropriate amount is positive, adding it to (BL x AF), or
  - (b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).
- (3) For the purposes of sub-paragraph (2) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

- (4) For the purposes of this paragraph—
- (a) NCA is the notional chargeable amount for the hereditament for the day concerned,
  - (b) BL is the base liability for the hereditament for the day concerned,
  - (c) AF is the appropriate fraction for the hereditament for the day concerned,
  - (d) D is the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990,
  - (e) E is the non-domestic rating multiplier of the special authority concerned for the financial year in which the day concerned falls,
  - (f) F is the non-domestic rating multiplier for the financial year in which the day concerned falls, and
  - (g) G is the number of days in the financial year in which the day concerned falls.
- 8 (1) Paragraph 9 below applies to a hereditament for a transitional day (the day concerned) if—
- (a) as regards the hereditament the day concerned is a chargeable day for which a chargeable amount falls to be determined under section 43 above,
  - (b) as regards the day concerned the hereditament is a defined hereditament,
  - (c) NCA is less than BL,
  - (d) NCA is less than (BL x AF), and
  - (e) in a case where the day concerned is not 1 April 1990, paragraph 9 below applies to the hereditament for each transitional day preceding the day concerned, and it does so by virtue of this paragraph.



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- (2) In a case where the hereditament is situated in the area of a special authority, the reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—
- (a) if the appropriate amount is positive, adding it to (BL x AF), or
  - (b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).
- (3) For the purposes of sub-paragraph (2) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

- (4) For the purposes of this paragraph—
- (a) NCA is the notional chargeable amount for the hereditament for the day concerned,
  - (b) BL is the base liability for the hereditament for the day concerned,
  - (c) AF is the appropriate fraction for the hereditament for the day concerned,
  - (d) D is the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990,
  - (e) E is the non-domestic rating multiplier of the special authority concerned for the financial year in which the day concerned falls,
  - (f) F is the non-domestic rating multiplier for the financial year in which the day concerned falls, and
  - (g) G is the number of days in the financial year in which the day concerned falls.
- 9 (1) In a case where this paragraph applies, for the purpose of ascertaining the chargeable amount for the day concerned under section 43 above that section shall have effect subject to the following amendments.
- (2) The following subsections shall be substituted for subsections (4) and (5)—
- “(4) Subject to subsection (5) below, the chargeable amount for a chargeable day shall be calculated by finding the amount represented by (BL x AF).
- (5) Where subsection (6) below applies the chargeable amount for a chargeable day shall be calculated by—
- (a) finding the amount represented by (BL x AF), and
  - (b) dividing that amount by 5.”

(3) The following subsections shall be inserted after subsection (6)—

“(6A) In a case where the hereditament is situated in the area of a special authority, a reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—

    - (a) if the appropriate amount is positive, adding it to (BL x AF), or
    - (b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).

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- (6B) For the purposes of subsection (6A) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

”

- (4) For the purposes of section 43 above as amended by this paragraph BL, AF, D, E, F and G shall be construed in accordance with paragraphs 7 and 8 above.

#### *Regulations*

- 10 (1) The Secretary of State may make regulations containing rules about the determination under section 45 or 54 above of a chargeable amount for a transitional day.
- (2) The rules may make provision which he considers to be equivalent to that made by or under paragraphs 1 to 9 above, subject to any modifications he thinks fit.
- 11 (1) The Secretary of State may make regulations containing rules supplementing or modifying or excluding, for any case he considers appropriate and to such extent as he considers appropriate, any relevant provision.
- (2) For the purpose of the determination under section 43, 45 or 54 above of a chargeable amount for a transitional day, the Secretary of State may make regulations applying any relevant provision (subject to any modifications he thinks fit) to any case—
- (a) where he considers it appropriate to do so, and
- (b) where the relevant provision would not (whether by virtue of regulations under sub-paragraph (1) above or otherwise) apply apart from the regulations under this sub-paragraph.
- (3) A relevant provision is a provision made by or under paragraphs 1 to 9 above or by regulations under paragraph 10 above.
- 12 Without prejudice to the generality of section 143(1) and (2) above and paragraphs 10 and 11 above, regulations under those paragraphs may include provision—
- (a) imposing duties and conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) in relation to the ascertainment of rateable values;
- (b) as to appeals relating to things done or not done by such officers.”
- 41 In Schedule 8 (non-domestic rating: pooling) in Part I, in paragraph 2 (non-domestic rating accounts: credits and debits) in sub-paragraph (1)(b) for “regulations made under section 59(2)” there shall be substituted “ section 59 ”.
- 42 (1) In Schedule 8 (non-domestic rating: pooling) Part II (non-domestic rating contributions) shall be amended as follows.

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- (2) In paragraph 5, at the end of sub-paragraph (1) there shall be added “ and has effect subject to any provision made by virtue of paragraph 6(2A) below ”.
- (3) In paragraph 6, after sub-paragraph (2) there shall be inserted the following sub-paragraphs—
  - “(2A) Regulations under paragraph 4 above may incorporate in the rules provision for adjustments to be made in the calculation of the amount of an authority’s non-domestic rating contribution under paragraph 5(2) or 5(6) above, being adjustments to take account of relevant changes affecting the amount of the authority’s non-domestic rating contribution for an earlier year.
  - (2B) For the purposes of sub-paragraph (2A) above, a change is a relevant change if it results from a decision, determination or other matter which (whether by reason of the time at which it was taken, made or occurred or otherwise) was not taken into account by the authority in the calculation under paragraph 5(6) above of the amount of its non-domestic rating contribution for the earlier year in question.”

F404 43 .....

**Textual Amendments**

**F404** Sch. 5 para. 43 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s.117\(2\), Sch.14](#) (with s. 118(1)(2)(4)), S.I. 1992/2454, art. 3

- 44 (1) In Schedule 9 (administration) paragraph 2 (collection and recovery) shall be amended as follows.
- (2) The following paragraphs shall be substituted for sub-paragraph (2)(g)—
  - “(g) that a notice must be in a prescribed form,
  - (ga) that a notice must contain prescribed matters,
  - (gb) that a notice must not contain other prescribed matters,
  - (gc) that where a notice is invalid because it does not comply with regulations under paragraph (g) or (ga) above, and the circumstances are such as may be prescribed, a requirement contained in the notice by virtue of regulations under paragraph (e) or (f) above shall nevertheless have effect as if the notice were valid,
  - (gd) that where a notice is invalid because it does not comply with regulations under paragraph (g) above, and a requirement has effect by virtue of regulations under paragraph (gc) above, the payee must take prescribed steps to issue to the ratepayer a document in the form which the notice would have taken had it complied with regulations under paragraph (g) above,
  - (ge) that where a notice is invalid because it does not comply with regulations under paragraph (ga) above, and a requirement has effect by virtue of regulations under paragraph (gc) above, the payee must take prescribed steps to inform the ratepayer of such of the matters prescribed under paragraph (ga) above as were not contained in the notice.”.
- (3) In sub-paragraph (2)(h) the words from “and” to the end shall be omitted.

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- (4) The following sub-paragraph shall be inserted after sub-paragraph (2)—
- “(2A) Regulations under this Schedule may include provision that where—
- (a) an amount paid by the ratepayer in excess of his liability falls to be repaid or credited, and
- (b) the circumstances are such as may be prescribed,
- an additional amount by way of interest shall be paid or credited.”
- 45 In Schedule 9 the following paragraph shall be inserted after paragraph 4—
- “4A (1) Regulations under this Schedule may include provision that a charging authority and a person liable to pay it an amount under section 43 or 45 above may enter into an agreement that—
- (a) any interest of his in the hereditament as regards which the liability arises shall be charged to secure payment of the amount, and
- (b) in consideration of the charge the authority will take no steps for a period specified in the agreement to recover any payment in respect of the amount.
- (2) The regulations may include—
- (a) provision that the agreement may also extend to any further amount the person may become liable to pay to the authority under section 43 or 45 above as regards the hereditament;
- (b) provision that the agreement may provide for the payment of interest on sums outstanding and for interest payable to be secured by the charge;
- (c) provision restricting the period which may be specified as mentioned in sub-paragraph (1)(b) above.”
- 46 (1) Paragraph 5 of Schedule 9 (power to require information to be supplied to a valuation officer) shall be amended as follows.
- (2) In sub-paragraph (1) for the words from “requiring” to the end there shall be substituted “requesting him to supply to the officer information—
- (a) which is specified in the notice, and
- (b) which the officer reasonably believes will assist him in carrying out functions conferred or imposed on him by or under this Part.”
- (3) After sub-paragraph (1) there shall be inserted—
- “(1A) A notice under this paragraph must state that the officer believes the information requested will assist him in carrying out functions conferred or imposed on him by or under this Part.”
- (4) In sub-paragraph (2)—
- (a) for “required” (in the first place where the word occurs) there shall be substituted “ requested ”, and
- (b) for “required” (in the second place where the word occurs) there shall be substituted “ specified ”.
- 47 (1) Paragraph 6 of Schedule 9 (authority’s duty to supply information to valuation officer) shall be amended as follows.

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(2) In sub-paragraph (1) for “relevant” there shall be substituted “ charging ”, and in consequence sub-paragraph (2) shall be omitted.

(3) After sub-paragraph (1) there shall be inserted—

“(1A) The Secretary of State may make regulations containing provision that, at such times and in such manner as may be prescribed, a charging authority shall supply to the valuation officer for the authority information of such description as may be prescribed.”

48 The following paragraphs shall be substituted for paragraph 8 of Schedule 9 (inspection)—

“8 (1) A person may require a valuation officer to give him access to such information as will enable him to establish what is the state of a list, or has been its state at any time since it came into force, if—

- (a) the officer is maintaining the list, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.

(2) A person may require a charging authority to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—

- (a) the authority has deposited the copy under section 41(6B) above, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.

(3) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—

- (a) the Secretary of State has deposited the copy under section 52(6B) above, and
- (b) the list is in force or has been in force at any time in the preceding 5 years.

(4) A person may require a charging authority to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

- (a) the authority has deposited the copy under section 41(6) above, and
- (b) the list itself is not yet in force.

(5) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

- (a) the Secretary of State has deposited the copy under section 52(6) above, and
- (b) the list itself is not yet in force.

(6) A requirement under any of the preceding provisions of this paragraph must be complied with at a reasonable time and place and without payment being sought; but the information may be in documentary or

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other form, as the person or authority of whom the requirement is made thinks fit.

- (7) Where access is given under this paragraph to information in documentary form the person to whom access is given may—
- (a) make copies of (or of extracts from) the document;
  - (b) require a person having custody of the document to supply to him a photographic copy of (or of extracts from) the document.
- (8) Where access is given under this paragraph to information in a form which is not documentary the person to whom access is given may—
- (a) make transcripts of (or of extracts from) the information;
  - (b) require a person having control of access to the information to supply to him a copy in documentary form of (or of extracts from) the information.
- (9) If a reasonable charge is required for a facility under sub-paragraph (7) or (8) above, the sub-paragraph concerned shall not apply unless the person seeking to avail himself of the facility pays the charge.
- (10) If without reasonable excuse a person having custody of a document containing, or having control of access to, information access to which is sought under this paragraph—
- (a) intentionally obstructs a person in exercising a right under sub-paragraph (1), (2), (3), (4), (5), (7)(a) or (8)(a) above, or
  - (b) refuses to comply with a requirement under sub-paragraph (7)(b) or (8)(b) above,
- he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.
- 9 (1) A person may, at a reasonable time and without making payment, inspect any proposal made or notice of appeal given under regulations made under section 55 above, if made or given as regards a list which is in force when inspection is sought or has been in force at any time in the preceding 5 years.
- (2) A person may—
- (a) make copies of (or of extracts from) a document mentioned in sub-paragraph (1) above, or
  - (b) require a person having custody of such a document to supply to him a photographic copy of (or of extracts from) the document.
- (3) If a reasonable charge is required for a facility under sub-paragraph (2) above, the sub-paragraph shall not apply unless the person seeking to avail himself of the facility pays the charge.
- (4) If without reasonable excuse a person having custody of a document mentioned in sub-paragraph (1) above—
- (a) intentionally obstructs a person in exercising a right under sub-paragraph (1) or (2)(a) above, or
  - (b) refuses to supply a copy to a person entitled to it under sub-paragraph (2)(b) above,

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he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.”

*Precepts and levies*

F405 49 .....

**Textual Amendments**

**F405** Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)), S.I. 1992/2454, **art. 3**

F406 50 .....

**Textual Amendments**

**F406** Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F407 51 .....

**Textual Amendments**

**F407** Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F408 52 .....

**Textual Amendments**

**F408** Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F409 53 .....

**Textual Amendments**

**F409** Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F410 54 .....

**Textual Amendments**

**F410** Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

55 (1) Section 75 (special levies) shall be amended as follows.

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(2) In subsection (2) for “Secretary of State” there shall be substituted “ appropriate Minister ”.

F411(3) .....

(4) At the end of that section there shall be added the following subsection—

“(8) In this section “the appropriate Minister” has the same meaning as in section 118 below.”

**Textual Amendments**  
F411 Sch. 5 para. 55(3) repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

F41256 .....

**Textual Amendments**  
F412 Sch. 5 para. 56 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art.3

*Grants*

57 (1) Section 77 (information) shall be omitted.

(2) This paragraph shall not affect the operation of section 77 as regards a case where a notice has been served under it before the coming into force of this paragraph.

F41358 .....

**Textual Amendments**  
F413 Sch. 5 para. 58 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(8)); S.I. 1992/2454, art.3

F41459 .....

**Textual Amendments**  
F414 Sch. 5 para. 59 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3(1)

F41560 .....

**Textual Amendments**  
F415 Sch. 5 para. 60 repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 8 Pt. 1; S.I. 2003/2938, art. 7(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I



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F416 61 .....

**Textual Amendments**

**F416** Sch. 5 para. 61 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

*Funds*

62 In section 89(4) (use of sums paid into charging authority’s collection fund) for “settlement” there shall be substituted “ the making ”, and consequently in section 89(5) for “settling” there shall be substituted “ making ”.

F417 63 .....

**Textual Amendments**

**F417** Sch. 5 para. 63 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

F418 64 .....

**Textual Amendments**

**F418** Sch. 5 para. 64 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F419 65 .....

**Textual Amendments**

**F419** Sch. 5 para. 65 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

*Financial administration*

66 The following subsection shall be inserted after subsection (3) of section 114 (functions of chief finance officer)—

“(3A) It shall be the duty of the chief finance officer of a relevant authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—

- (a) with the person who is for the time being designated as the head of the authority’s paid service under section 4 of the Local Government and Housing Act 1989; and
- (b) with the person who is for the time being responsible for performing the duties of the authority’s monitoring officer under section 5 of that Act.”

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### *Existing rates*

- 67 (1) In section 118 (power to abolish or modify existing rates), at the end of subsection (1) there shall be added “ and, in the case of an internal drainage board, there shall be disregarded for the purposes of paragraph (b) above any agreement under section 81 of the Land Drainage Act 1976 under which the board have agreed that no drainage rate will be levied on occupiers or owners of certain rateable hereditaments ”.
- (2) In subsections (2) and (4) of that section for the words “Secretary of State” there shall be substituted “ appropriate Minister ”.
- (3) At the end of subsection (5) of that section there shall be added “and “the appropriate Minister” means—
- (a) as respects any internal drainage board whose district is wholly within England, the Minister of Agriculture, Fisheries and Food;
  - (b) as respects any internal drainage board whose district is partly in England and partly in Wales, that Minister and the Secretary of State acting jointly; and
  - (c) as respects any other body, the Secretary of State.”

### *Information*

- 68 The following section shall be inserted after section 139—

**“139A Information.**

- (1) Subsection (2) below applies where—
  - (a) the Secretary of State serves a notice on a relevant authority or relevant officer requiring it or him to supply to the Secretary of State information specified in the notice,
  - (b) the information is required by the Secretary of State for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Act, and
  - (c) the information is not personal information.
- (2) The authority or officer shall supply the information required, and shall do so in such form and manner and at such time as the Secretary of State specifies in the notice.
- (3) If an authority or officer fails to comply with subsection (2) above the Secretary of State may assume the information required to be such as he sees fit; and in such a case the Secretary of State may decide in accordance with the assumption whether to exercise his powers, and how to perform his functions, under this Act.
- (4) In deciding whether to exercise his powers, and how to perform his functions, under this Act the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.
- (5) Each of the following is a relevant authority—
  - (a) a charging authority;
  - (b) a precepting authority.

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- (6) The community charges registration officer for a charging authority is a relevant officer.
- (7) Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the authority or officer concerned; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual.
- (8) This section shall have effect before 1 April 1990 as if after paragraph (b) of subsection (5) above there were inserted—
  - (c) the Inner London Education Authority.”

*England and Wales: separate administration*

- 69 (1) Section 140 (separate administration in England and Wales) shall be amended as follows.
- (2) In subsection (1) after “VII” there shall be inserted “ , and paragraphs 1 to 4 of Schedule 12A below, ”.
  - (3) In subsection (2) the word “and” at the end of paragraph (e) shall be omitted, and after paragraph (f) there shall be inserted “and
    - (a) separate reports under Schedule 12A below shall be made.”
  - (4) In subsection (3) after “VII” there shall be inserted “ , and paragraphs 1 to 4 of Schedule 12A below, ”.

*Payments*

F42070 . . .

**Textual Amendments**

**F420** Sch. 5 para. 70 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2); Sch.14 (with s.118(1)(2)(4)), S.I. 1992/2454, art. 3(1)

F42171 . . . . .

**Textual Amendments**

**F421** Sch. 5 para. 71 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

*Orders and regulations*

- 72 (1) Section 143 (orders and regulations) shall be amended as follows.
- (2) In subsection (2) after “Secretary of State” there shall be inserted “ the Minister of Agriculture, Fisheries and Food ”.
  - (3) In subsection (3) for “(9)” there shall be substituted “ (9B) ”.

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- (4) In subsection (4) the words “57 or” shall be omitted.
- (5) In subsection (5) after “118 above” there shall be inserted “ otherthan regulations relating to an internal drainage board ”.
- (6) The following subsections shall be inserted after subsection (9)—
  - “(9A) The power to make an order under paragraph 5 of Schedule 7A below shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.
  - (9B) The power to make regulations under paragraph 5 or 6 of Schedule 12A below shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.”
- (7) In subsection (10) after “118 above” there shall be inserted “ otherthan regulations relating to an internal drainage board ”.

*Relevant population*

F42273 . . . . .

**Textual Amendments**  
**F422** Sch. 5 para. 73 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3(1)

F42374 . . . . .

**Textual Amendments**  
**F423** Sch. 5 para. 74 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, art. 3

*Information*

- 75 In section 146 (interpretation) the following subsection shall be inserted after subsection (5)—
  - “(5A) Unless the context otherwise requires, “information” includes accounts, estimates and returns.”

*Tribunals*

- 76 (1) Schedule 11 (tribunals) shall be amended as follows.
- (2) In paragraph 2 (jurisdiction) the following paragraph shall be inserted at the end—
  - “(c) paragraph 4 of Schedule 4A above.”

F424(3) . . . . .

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**Textual Amendments**

**F424** Sch. 5 para. 76(3) repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

*General*

**F425**<sup>77</sup> .....

**Textual Amendments**

**F425** Sch. 5 para. 77 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

**F426**<sup>78</sup> .....

**Textual Amendments**

**F426** Sch. 5 para.78 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

- 79 (1) Paragraphs 7, 8, 52, 54, 56 and 66 above shall come into force at the expiry of the period of 2 months beginning on the day this Act is passed.
- (2) Paragraphs 49(3), 60 and 63 above shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and
- (a) different days may be so appointed for different provisions or for different purposes;
  - (b) section 195(3) of this Act shall apply to an order under this sub-paragraph as it applies to an order under section 195(2).
- (3) The 1988 Act shall be treated as having been enacted with the amendments made by this Schedule, except in so far as the amendments are made by paragraph 12, 57, or 68 above or any of the paragraphs mentioned in sub-paragraph (1) or (2) above.

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

**C114** Power of appointment conferred by Sch. 5 para. 79(2) fully exercised: 16.1.1990 appointed by S.I. 1989/2445, **art. 3**

80 In this Schedule “the 1988 Act” means the <sup>M180</sup>Local Government Finance Act 1988.

**Marginal Citations**

**M180** 1988 c. 41.

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

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## SCHEDULE 6

Section 145.

## AMENDMENT OF SCOTTISH ENACTMENTS

*Valuation appeals to Lands Tribunal for Scotland*

1 In section 1 of the <sup>M181</sup>Lands Tribunal Act 1949 (which provides as to, amongst other things, the jurisdiction of the Lands Tribunal for Scotland) after subsection (3B) there shall be inserted the following subsection—

“(3BA) The Lands Tribunal for Scotland may also determine any appeal against the decision of a valuation appeal committee not to refer to the Tribunal any appeal or complaint made to the committee and, where the Tribunal upholds such an appeal, the appeal or complaint made to the committee shall, for the purposes of this section, be regarded as having been referred by the committee to the Tribunal for determination under subsection (3A) above.”

**Marginal Citations**

M181 1949 c. 42.

2 In section 15 of the <sup>M182</sup>Local Government (Financial Provisions) (Scotland) Act 1963—

(a) after subsection (2) there shall be inserted the following subsection—

“(2AA) A valuation appeal committee, on the joint application of the assessor and an appellant or complainer made within such period as may be prescribed by regulations made by the Secretary of State, shall refer the appeal or complaint to the Lands Tribunal for Scotland for determination under section 1(3A) of the Lands Tribunal Act 1949.”; and

(b) in subsection (2A) (regulations about valuation appeals to the Lands Tribunal for Scotland)—

(i) for the word “governing” there shall be substituted the words “as to”;

(ii) the word “and” between paragraphs (a) and (b) shall be omitted; and

(iii) at the end there shall be added the following paragraphs—

“(c) the giving by a valuation appeal committee of reasons for its decision not to refer to the Tribunal any appeal or complaint made to the committee; and

(d) the circumstances and manner in which an appeal may be made to the Tribunal for determination under subsection (3BA) of section 1 of the Lands Tribunal Act 1949 (jurisdiction of the Tribunal to determine appeal against decision of valuation appeal committee not to refer an appeal or complaint to the Tribunal).”

**Marginal Citations**

M182 1963 c. 12.

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

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*Rateable value of certain buildings used for breeding or rearing horses*

- 3 In subsection (1) of section 6 of the <sup>M183</sup>Valuation and Rating (Scotland) Act 1956 (as certainment of annual and rateable values) for the words “the next following section” there shall be substituted the words “ sections 7 to 7B ”.

**Marginal Citations**

**M183** 1956 c. 60.

- 4 In that Act the following section shall be inserted after section 7A—

**“7B Rateable value of certain buildings used for breeding or rearing horses.**

- (1) This section applies to any lands and heritages the whole or any part of which consists of buildings which are—
- (a) used for the breeding and rearing of horses or for either of those purposes; and
  - (b) occupied together with any agricultural land or agricultural building.
- (2) The rateable value of any lands and heritages to which this section applies shall be taken to be the amount determined under section 6 of this Act less whichever is the smaller of the following amounts—
- (a) such amount as the Secretary of State may by order specify for the purposes of this section;
  - (b) the amount which but for this section would be determined under that section in respect of so much of the lands and heritages as consists of buildings so used and occupied.
- (3) An order under subsection (2) of this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section—
- “agricultural land” means any land of more than two hectares which is agricultural lands and heritages within the meaning of subsection (2) of section 7 of this Act and is not land used exclusively for the pasturing of horses;
  - “agricultural building” has the same meaning as in that subsection; and
  - “horses” has the same meaning as in section 6(4) of the Riding Establishments Act 1964.”

*Application of regulations about determination of net annual value*

- 5 In section 6 of the <sup>M184</sup>Valuation and Rating (Scotland) Act 1956, after subsection (8B) (further provision as to regulations relating to determination of net annual value) there shall be inserted the following subsections—

“(8C) For the purposes of subsection (8B) above, cases may be defined, described or classified by reference to such factors as the Secretary of State thinks fit.

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(8D) Without prejudice to the generality of subsection (8C) above, a case may be defined, described or classified by reference to one or more of the following factors—

- (a) the physical characteristics of lands and heritages;
- (b) the fact that lands and heritages are unoccupied or are occupied for purposes prescribed by the regulations or by persons of descriptions so prescribed.”

**Marginal Citations**

M184 1956 c. 60.

*Rateable value for purposes of levying rates after 1st April 1990*

- 6 In section 7 of the <sup>M185</sup>Local Government (Scotland) Act 1975 (levying of rates) in subsection (1A) there shall be inserted at the end the words “ ; and references in this subsection to an apportioned value of part residential subjects are references to that part of that value which is shown in the apportionment note as relating to the non-residential use of the subjects, ”.

**Marginal Citations**

M185 1975 c. 30.

- [<sup>F427</sup> In section 128 of the <sup>M186</sup>Local Government Finance Act 1988 (levying of rates after 1st April 1990)—

- (a) in subsection (1)—
  - (i) for the word “Every” there shall be inserted the words “ Then on-domestic ”; and
  - (ii) after the word “regards” there shall be inserted the words “ different areas and” ”;
- (b) after that subsection there shall be inserted the following subsections—

“(1A) The considerations referred to in paragraph (b) of subsection (1) above shall be such as the Secretary of State thinks fit and may, without prejudice to that generality, include considerations which otherwise would not relate to the determination of the rateable value of lands and heritages.

(1B) The classification of lands and heritages for the purposes of subsection (1) above shall be by reference to such factors as the Secretary of State thinks fit and may, without prejudice to that generality, include the circumstances of persons by whom rates are payable.

(1C) Regulations made under this section may, in relation to lands and heritages which are part residential subjects (within the meaning of the Abolition of Domestic Rates Etc. (Scotland) Act 1987), provide for the apportionment of the rateable value prescribed or determined under this section in respect of the subjects as between the residential and non-residential use of the subjects.



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- (1D) A rateable value prescribed or determined under this section in respect of any lands and heritages shall be the rateable value of the lands and heritages for the purpose of the levying of the non-domestic rate but not for any other purposes.”; and
- (c) subsection (3) shall cease to have effect.]

**Textual Amendments**

**F427** Sch. 6 para. 7 repealed (S.) (1.4.1995) by 1994 c. 39, s. 180(2), Sch. 14 (with s. 128(8)); S.I. 1994/3150, art. 4(d), Sch. 2

**Marginal Citations**

**M186** 1988 c. 41.

*Exemption of church premises from the non-domestic rate*

F428<sup>g</sup>

**Textual Amendments**

**F428** Sch. 6 para. 8 repealed (1.4.1992) by Local Government Finance Act 1992 (c. 14), s. 117, Sch. 14 (with a. 118(1)(2)(4)); S.I. 1992/818, art. 2, Sch.

*Extension of charitable rate relief to universities*

- 9 In the <sup>M187</sup>Local Government (Financial Provisions etc.) (Scotland) Act 1962—
- (a) in section 4, subsections (3) and (4), and
- (b) the first Schedule,
- shall be omitted.

**Marginal Citations**

**M187** 1962 c. 9.

*Duty to notify registration officer about liability for collective community charge*

- 10 In subsection (1) of section 18 of the <sup>M188</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 (duty to notify registration officer of certain matters) for the words “the personal or standard community charge” there shall be substituted the words “ any of the community charges ”.

**Marginal Citations**

**M188** 1987 c. 47.

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*Interest not payable on back dated liability for community charges where there is reasonable excuse for non-registration*

- 11 (1) In subsection (3)(a) of section 18 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (interest on backdated liability for community charges) after the words “together with” there shall be inserted the words “,unless he satisfies the levying authority that he has a reasonable excuse for not having been registered,”
- (2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as the said section 18.

*Exemption from personal community charge*

- 12 In paragraph 4 of Schedule 1A to the Abolition of Domestic Rates Etc.(Scotland) Act 1987 (exemption of the severely mentally impaired) there shall be added at the end the following sub-paragraphs—

“(6) Regulations under sub-paragraph (5) above may provide that, in the circumstances set out in the regulations, a certificate given for the purposes of sub-paragraph (1)(c) above shall continue to have effect for the purposes of this paragraph notwithstanding that the definition of severe mental impairment upon which the certificate proceeds has been substituted by the regulations.

(7) Regulations under sub-paragraph (5) above made in respect of the financial year 1989-90 may provide that a person—

(a) who was not within the old definition of severely mentally impaired but who, being within the new definition of that expression, is exempt; and

(b) in respect of whom such conditions as are prescribed are fulfilled may be treated as having been exempt as from such date prior to the coming into force of the regulations as may be provided for in the regulations.

(8) In sub-paragraph (7) above, the “old” definition is the definition in force immediately before the coming into force of regulations under sub-paragraph (5) above and the “new” definition is the definition being substituted for the old definition by regulations under that sub-paragraph.”

- 13 For paragraph 5 of Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (exemption of person in respect of whom another is entitled to child benefit) there shall be substituted the following paragraph—

“5 A person is exempt if—

(a) another person is entitled to child benefit in respect of him; or

(b) a person would be entitled to child benefit in respect of him but for paragraph 1(b) or (c) of Schedule 1 to the Child Benefit Act 1975.”

- 14 After paragraph 6 of Schedule 1A to the <sup>M189</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 there shall be inserted the following paragraph—

“6A (1) A person is exempt if—

(a) he is aged under 20;

(b) he is undertaking a qualifying course of education; and

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(c) the course is not undertaken in consequence of an office or employment held by the person.

(2) For the purposes of this paragraph, a person shall be treated as undertaking a qualifying course of education if (and only if) he fulfils such conditions as may be prescribed.”

#### Marginal Citations

M189 1987 c. 47.

15 In paragraph 12(c) of Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (exemption for persons residing in premises subject to non-domestic rates) there shall be added at the end “ but are not part residential subjects ”.

#### *Liability for non-domestic water rate*

[<sup>F429</sup>16(1) In section 40(3) of the <sup>M190</sup>Water (Scotland) Act 1980 (which provides as to who is liable for the non-domestic water rate) there shall be inserted at the end the words “or who would be liable to pay those non-domestic rates but for any enactment which exempts the lands and heritages from those rates or by or under which any relief or remission from liability for those rates is given”.

(2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as paragraph 29 of Schedule 5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987.]

#### Textual Amendments

F429 Sch. 6 para. 16 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), Sch. 2

#### Marginal Citations

M190 1980 c. 45.

#### *Premises in respect of which non-domestic water rate is leviable*

[<sup>F430</sup>17(1) In section 41 of the Water (Scotland) Act 1980 (levy of non-domestic waterrate on certain premises)—

- (a) in the proviso to subsection (1) (rate to be levied on one half of rateable value or lower fraction resolved by water authority)—
- (i) after the word “aforesaid” there shall be inserted the words “ or to any class of such premises ”; and
  - (ii) after the words “those premises” there shall be inserted the words “ or, as the case may be, to premises in that class ”; and
- (b) in subsection (4) (premises subject to the rate) after the words “other premises ” there shall be inserted the words “ of whatsoever kind but ”.

(2) The amendments made by sub-paragraph (1) above shall be deemed always to have been in force.]

*Status: Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F430** Sch. 6 para. 17 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

#### *Exemption of formula valued premises from non-domestic water rate*

[<sup>F431</sup>18 In section 6 of the <sup>M191</sup>Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) after subsection (1) there shall be inserted the following subsection—

“(1A) The Secretary of State may by order provide that the non-domestic water rate shall not be leviable in respect of formula valued lands and heritages or of such formula valued lands and heritages or of such class or description of formula valued lands and heritages as may be prescribed for the purposes of this subsection.

In this subsection, “formula valued lands and heritages” are lands and heritages which have, or lands and heritages of a class or description which has, been prescribed for the purposes of subsection (1) above.”]

#### Textual Amendments

**F431** Sch. 6 para. 18 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

#### Marginal Citations

**M191** 1975 c. 30.

[<sup>F432</sup>19 In section 40 of the <sup>M192</sup>Water (Scotland) Act 1980 (non-domestic water rate)—

(a) in subsection (1), after the word “Act” there shall be inserted the words “ and section 6(1A) of the Local Government (Scotland) Act 1975 (exemption of formula valued premises from non-domestic water rate) ”;

(b) subsection (7) shall be omitted.]

#### Textual Amendments

**F432** Sch. 6 para. 19 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

#### Marginal Citations

**M192** 1980 c. 45.

#### *Liability for non-domestic sewerage rate*

<sup>F433</sup>20 .....

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**Textual Amendments**

**F433** Sch. 6 para. 20 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(d), Sch.

*Reduced liability for non-domestic sewerage rate  
in respect of certain church and charity premises*

F434 21 .....

**Textual Amendments**

**F434** Sch. 6 para. 21 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(d), Sch.

*Public inspection of community charges register*

22 In section 20(2)(a)(ii) of the <sup>M193</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 after “premises”, where secondly occurring, there shall be inserted “ or the sex of that person ”.

**Marginal Citations**

M193 1987 c. 47.

*Exclusion from voting disability of local authority  
members who are community charge payers*

F435 23 .....

**Textual Amendments**

**F435** Sch. 6 para. 23 repealed (S.) (1.5.2003) by Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), s. 37(2), sch. 4 (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

*Revocation of civil penalties imposed by registration officer*

24 (1) In section 17 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (which provides for, amongst other things, the imposition of civil penalties) after subsection (11) there shall be inserted the following subsection—

“(11A) If, after the imposition of a civil penalty under subsection (10) or (11) above but before the making of any appeal under subsection (12) below against that imposition, the registration officer, in the light of information which he did not consider when imposing the penalty—

- (a) is no longer satisfied as to the matter as to which he was satisfied under paragraph (a) or (b) of subsection (10) above or paragraph (c) of subsection (11) above before imposing the penalty; or

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(b) is satisfied that the responsible person upon whom the penalty was imposed did have a reasonable excuse,

he may revoke the imposition of the penalty; and on such revocation any money paid to the regional or islands council by the responsible person by way of that penalty shall be repaid by them to him.”

(2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as the said section 17.

*Evidence in appeals under Abolition of Domestic Rates Etc. (Scotland) Act 1987*

25 In section 29 of the <sup>M194</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987 (appeals) after subsection (1) there shall be inserted the following subsection—

“(1A) The sheriff may, in considering an appeal under this Act, hear and receive evidence.

This subsection is without prejudice to—

- (a) any other enactment, or
- (b) any rule of law,

relating to the hearing or receiving of evidence in summary applications.”.

**Marginal Citations**

M194 1987 c. 47.

*No liability for community water charges where water previously supplied free*

26 (1) In paragraph 8 of Schedule 5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (qualifying conditions for liability to pay community water charges) there shall be added at the end “and

- (c) that the supply of water provided is not one which the water authority were, immediately before 16 May 1949, and continue to be under an obligation to provide free of charge.”

(2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as the said paragraph 8.

*Provision of information by registration officer*

27 The following section shall be inserted after section 20B of the Abolition of Domestic Rates Etc. (Scotland) Act 1987—

**“20C Registration officer: provision of information to Secretary of State.**

(1) Subsection (2) below applies where—

- (a) the Secretary of State serves a notice on the registration officer requiring him to supply to the Secretary of State information specified in the notice;
- (b) the information is in the possession or control of the registration officer and was obtained by him for the purpose of carrying out his functions under this Act; and

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- (c) the information is not personal information.
- (2) The registration officer shall supply the information required, and shall do so in such form and manner and at such time as the Secretary of State specifies in the notice.
- (3) Regulations under this section may include provision that the registration officer may—
- (a) supply relevant information to any person who requests it;
  - (b) charge a prescribed fee for supplying the information.
- (4) Information is relevant information if—
- (a) it was obtained by the registration officer for the purpose of carrying out his functions under this Act; and
  - (b) it is not personal information.
- (5) Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the registration officer; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual.”

#### *Revenue support grants*

- 28 In section 23(2) of the <sup>M195</sup>Abolition of Domestic Rates Etc. (Scotland) Act 1987, for the words from “a” onward there shall be substituted the words “ grants (to be known as “revenue support grants”) to local authorities ”.

#### **Marginal Citations**

[M195 1987 c. 47.](#)

- 29 For paragraphs 1 to 3 of Schedule 4 to that Act (revenue support grants) there shall be substituted the following paragraphs—
- “1 (1) The local authorities to which revenue support grant is payable in respect of a financial year shall be such local authorities as are specified by order made by the Secretary of State.
- (2) The amount of revenue support grant payable in respect of a financial year of a local authority so specified shall be such amount as is determined in relation to the local authority by order made by the Secretary of State.
- (3) The Secretary of State may at any time by order amend or revoke any order made under this paragraph and any amount of revenue support grant which has been paid and which, in consequence of anything done under this paragraph, falls to be repaid may be recovered by the Secretary of State whenever and however he thinks fit.
- 2 (1) An order under paragraph 1 above shall be made only with the consent of the Treasury.

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- (2) Before making an order under paragraph 1 above the Secretary of State shall consult such associations of local authorities as appear to him to be appropriate.
- (3) An order under paragraph 1 above together with a report of the considerations which led to its provisions shall be laid before the Commons House of Parliament but shall have no effect until approved by a resolution of that House.”

## SCHEDULE 7

Section 149.

### COMPENSATION PROVISIONS OF LANDLORD AND TENANT ACT 1954, PART II

- 1 Any reference in this Schedule to a section which is not otherwise identified is a reference to that section of the <sup>M196</sup>Landlord and Tenant Act 1954, Part II of which relates to security of tenure for business, professional and other tenants.

#### **Marginal Citations**

**M196** 1954 c. 56.

- 2 (1) Subject to the following provisions of this Schedule, section 37 (compensation where order for new tenancy precluded on certain grounds) shall have effect with the amendments set out below.
- (2) At the beginning of subsection (2) there shall be inserted the words “Subject to subsections (5A) to (5D) of this section”.
- (3) After subsection (5) there shall be inserted the following subsections—
- “(5A) If part of the holding is domestic property, as defined in section 66 of the Local Government Finance Act 1988,—
- (a) the domestic property shall be disregarded in determining the rateable value of the holding under subsection (5) of this section; and
  - (b) if, on the date specified in subsection (5)(a) of this section, the tenant occupied the whole or any part of the domestic property, the amount of compensation to which he is entitled under subsection (1) of this section shall be increased by the addition of a sum equal to his reasonable expenses in removing from the domestic property.
- (5B) Any question as to the amount of the sum referred to in paragraph (b) of subsection (5A) of this section shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.
- (5C) If the whole of the holding is domestic property, as defined in section 66 of the Local Government Finance Act 1988, for the purposes of subsection (2) of this section the rateable value of the holding shall be taken to be an amount equal to the rent at which it is estimated the holding might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant’s rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the holding in a state to command that rent.



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- (5D) The following provisions shall have effect as regards a determination of an amount mentioned in subsection (5C) of this section—
- (a) the date by reference to which such a determination is to be made is the date on which the landlord’s notice under section 25 or, as the case may be, subsection (6) of section 26 of this Act is given;
  - (b) any dispute arising, whether in proceedings before the court or otherwise, as to such a determination shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer;
  - (c) an appeal shall lie to the Lands Tribunal from such a decision but, subject to that, such a decision shall be final.”
- (4) At the end of subsection (8) (definition of “the appropriate multiplier”) there shall be added the words “and different multipliers may be so prescribed in relation to different cases”.
- 3 The amendments made by paragraph 2 above do not have effect unless the date which, apart from paragraph 4 below, is relevant for determining the rateable value of the holding under subsection (5) of section 37 is on or after 1st April 1990.
- 4 (1) Subject to paragraph 3 above and paragraph 5 below, in any case where—
- (a) the tenancy concerned was entered into before 1st April 1990 or was entered into on or after that date in pursuance of a contract made before that date, and
  - (b) the landlord’s notice under section 25 or, as the case may be, section 26(6) is given before 1st April 2000, and
  - (c) within the period referred to in section 29(3) for the making of an application under section 24(1), the tenant gives notice to the landlord that he wants the special basis of compensation provided for by this paragraph,
- the amendments made by paragraph 2 above shall not have effect and section 37 shall, instead, have effect with the modification specified in sub-paragraph (2) below.
- (2) The modification referred to in sub-paragraph (1) above is that the date which is relevant for the purposes of determining the rateable value of the holding under subsection (5) of section 37 shall be 31st March 1990 instead of the date on which the landlord’s notice is given.
- 5 In any case where—
- (a) paragraph 4(1)(a) above applies, and
  - (b) on 31st March 1990, the rateable value of the holding could be determined only in accordance with paragraph (c) of subsection (5) of section 37,
- no notice may be given under paragraph 4(1)(b) above.

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**Textual Amendments**

F436 Sch. 8 omitted (7.1.1997) by virtue of S.I. 1996/3071, art. 2, Sch. para. 3(11)

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SCHEDULE 9

Section 165.

AMENDMENTS OF PARTS VI, IX, XI, XVII AND XVIII OF THE HOUSING ACT 1985

PART I

AMENDMENTS OF PART VI

F437<sub>1</sub> .....

Textual Amendments

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sub>2</sub> .....

Textual Amendments

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sub>3</sub> .....

Textual Amendments

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sub>4</sub> .....

Textual Amendments

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sub>5</sub> .....

Textual Amendments

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sub>6</sub> .....

Textual Amendments

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

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F437<sup>7</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sup>8</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sup>9</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sup>10</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sup>11</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sup>12</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F437<sup>13</sup> .....

**Textual Amendments**

F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

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**PART II**

**AMENDMENTS OF PART IX**

F437 14 .....

**Textual Amendments**  
F437 Sch. 9 paras. 1-14 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

15 Section 266 (power to make closing order as to part of building) shall cease to have effect.

F438 16 .....

**Textual Amendments**  
F438 Sch. 9 para. 16 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

17 (1) In section 269 (right of appeal against order), in subsection (2) after the word “premises” there shall be inserted “or part of the premises”.

F439 (2) .....

(3) In subsection (3) of that section, paragraph (b) and the word “and” immediately preceding it shall be omitted.

F440 (4) .....

(5) Subsections (4) and (5) of that section shall cease to have effect.

**Textual Amendments**  
F439 Sch. 9 para. 17(2) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)  
F440 Sch. 9 para. 17(4) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

18 (1) .....

(2) .....

19 In section 273 (demolition orders: cleansing before demolition), in subsection (4) for the word “house” there shall be substituted “ premises ”.

20 (1) In section 274 (demolition orders: power to permit reconstruction of condemned house), in subsection (1) for the word “house”, in each place where it occurs, there shall be substituted “premises”.

F441 (2) .....

F442 (3) .....

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**Textual Amendments**

- F441** Sch. 9 para. 20(2) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with Sch.); [S.I. 2006/1535](#), art. 2(c) (with Sch.)
- F442** Sch. 9 para. 20(3) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with Sch.); [S.I. 2006/1535](#), art. 2(c) (with Sch.)

**F443** 21 .....

**Textual Amendments**

- F443** Sch. 9 paras. 21-23 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with Sch.); [S.I. 2006/1535](#), art. 2(c) (with Sch.)

**F443** 22 .....

**Textual Amendments**

- F443** Sch. 9 paras. 21-23 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with Sch.); [S.I. 2006/1535](#), art. 2(c) (with Sch.)

**F443** 23 .....

**Textual Amendments**

- F443** Sch. 9 paras. 21-23 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with Sch.); [S.I. 2006/1535](#), art. 2(c) (with Sch.)

24 Sections 280, 281 and 282 (which relate to the closing etc. of underground rooms) shall cease to have effect.

25 <sup>F444</sup>(1) .....

(2) After that subsection there shall be inserted the following subsections—

“(2A) A residential building containing one or more flats shall be treated for the purposes of this section as unfit for human habitation if some or all of the flats within it are unfit for human habitation.

(2B) Before declaring an area to be a clearance area, the authority shall—

- (a) serve notice of their intention to include a building in the clearance area on every person who has an interest in the building (whether as freeholder, lessee or mortgagee) and also, in the case of a residential building, on every person who has such an interest in any flat in the building; and
- (b) take reasonable steps to inform any occupiers of a residential building who do not have such an interest in the building or a flat in the building as is referred to in paragraph (a) of their intention to include the building in the clearance area; and

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- (c) publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) notice of their intention to declare the area to be a clearance area.
- (2C) A notice served under paragraph (a) of subsection (2B) shall invite representations from the person on whom the notice was served within such reasonable period, being not less than twenty-eight days after the date on which the notice is served, as may be specified in the notice.
- (2D) The authority shall, by the steps taken in relation to occupiers of a residential building as mentioned in paragraph (b) of subsection (2B), invite representations from those occupiers within such reasonable period, expiring not less than twenty-eight days after the date on which the steps are taken, as may be specified by the authority.
- (2E) A notice published in accordance with paragraph (c) of subsection (2B) shall invite representations from any interested persons within such reasonable period, being not less than twenty-eight days after the date on which the notice is published, as may be specified in the notice.
- (2F) The authority shall consider all representations made under subsections (2C), (2D) and (2E) and, in the light of the representations, shall take whichever of the following decisions they think appropriate, that is to say—
- (a) they may decide to declare the area to be a clearance area; or
  - (b) they may decide to declare the area to be a clearance area but exclude such residential buildings which are unfit for human habitation as they think fit; or
  - (c) they may decide not to declare the area to be a clearance area.”
- (3) In subsection (3) of that section,—
- (a) for the words “If the authority are so satisfied” there shall be substituted the words “ Subject to subsection (5B), where the authority decide to declare an area to be a clearance area in accordance with paragraph(a) or paragraph (b) of subsection (2F) ”; and
  - (b) in paragraph (a), for the words from “any building” onwards there shall be substituted—
    - “(i) any residential building which is not unfit for human habitation or dangerous or injurious to health;
    - (ii) any other building which is not dangerous or injurious to health; and
    - (iii) any residential buildings which, by virtue of subsection (2F)(b), they have decided to exclude from the area; and”
- (4) After subsection (5) there shall be inserted the following subsections—
- “(5A) Where a residential building which is unfit for human habitation is not included within a clearance area, whether by virtue of paragraph (b) or paragraph (c) of subsection (2F), the authority shall forthwith, in accordance with section 604A (disregarding guidance under that section in respect of this section), take action in respect of the building (and any flat contained within it) under whichever of sections 189, 264 and 265 it considers to be the most satisfactory course of action.

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(5B) Subject to section 578A, a clearance area may not include any parcel of land which is not contiguous with another parcel of land within the area; and, where the effect of subsection (3) would otherwise be that a clearance area would comprise two or more separate and distinct areas, paragraph (b) of that subsection shall have effect as if for the words “pass a resolution declaring the area so defined” there were substituted “if the effect of paragraph (a) would otherwise be that the area would comprise two or more separate and distinct areas, pass a separate resolution in respect of each of those areas declaring each of them”.

**Textual Amendments**

**F444** Sch. 9 para. 25(1) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\)](#), [Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with [Sch.](#)); [S.I. 2006/1535, art. 2\(c\)](#) (with [Sch.](#))

26 In section 291 (method of dealing with land acquired for clearance), in subsection (3) the words “Schedule 11 (rehabilitation orders)” shall be omitted.

27 (1) In section 294 (extinguishment of public rights of way over land acquired), at the end of subsection (1) there shall be added the words “as from such date as the Secretary of State in approving the order may direct”.

(2) In subsection (2) of that section for the words from “they may make” onwards there shall be substituted “an order made by the authority in advance of the purchase and approved by the Secretary of State (whether before or after the purchase) shall extinguish that right as from such date as the Secretary of State in approving the order may direct”.

(3) In subsection (3) of that section—

(a) for the word “six” there shall be substituted “four”; and

(b) after the word “publication” there shall be inserted “then, subject to subsection (4)”.

(4) After that subsection there shall be inserted the following subsection—

“(4) The Secretary of State may dispense with such an inquiry as is referred to in subsection (3) if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary.”

28 Section 299 and Schedule 11 (rehabilitation orders in respect of houses in clearance areas) shall cease to have effect.

**F445** 29 .....

**Textual Amendments**

**F445** Sch. 9 para. 29 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\)\(f\)](#), [Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with [Sch.](#)); [S.I. 2006/1535, art. 2\(c\)](#) (with [Sch.](#))

30 (1) In section 301 (retention of houses acquired for clearance), in subsection (1) for the word “houses”, in each place where it occurs, there shall be substituted “residential buildings”.

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- (2) In subsection (2) of that section for the word “house”, in each place where it occurs, there shall be substituted “ residential building ”.
- (3) In subsection (3) of that section for the word “houses”, in each place where it occurs, there shall be substituted “ residential buildings ”.
- (4) After that subsection there shall be inserted the following subsection—  
 “(4) In this section and section 302 “residential building” has the same meaning as it has in section 289.”

31 In section 302 (management and repair of house acquired under s. 300 or retained under s. 301)—

- (a) for the word “house”, in each place where it occurs except in paragraph (c), there shall be substituted “ residential building ”; and
- (b) in paragraph (c) for the word “house” there shall be substituted “ residential building or any flat in the building ”.

F44632 .....

**Textual Amendments**  
**F446** Sch. 9 para. 32 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with [Sch.](#)); [S.I. 2006/1535](#), art. 2(c) (with [Sch.](#))

33 F447(1) .....

- (2) In subsection (6) of that section for the word “house”, in each place where it occurs, there shall be substituted “ residential building ”.
- (3) After subsection (7) of that section there shall be inserted the following subsection—  
 “(8) In this section “residential building” has the same meaning as in section 289; and subsection (2A) of that section shall apply in determining whether a residential building containing one or more flats is unfit for human habitation for the purposes of subsection (4) as it applies for the purposes of that section.”

**Textual Amendments**  
**F447** Sch. 9 para. 33(1) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); [S.I. 2006/1060](#), art. 2(1)(e) (with [Sch.](#)); [S.I. 2006/1535](#), art. 2(c) (with [Sch.](#))

34 In section 306 (building becoming listed when acquired by agreement for clearance), in subsection (2), in paragraph (b) for the word “house” there shall be substituted “ residential building (within the meaning of section 289) ”.

35 In section 309 (recovery of possession of premises for purposes of approved re-development), in subsection (2) for the word “house”, in each place where it occurs, there shall be substituted “ dwelling-house ”.

F44836 .....



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**Textual Amendments**

**F448** Sch. 9 para. 36 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with [Sch.](#)); [S.I. 2006/1535, art. 2\(c\)](#) (with [Sch.](#))

- 37 In section 315 (power of court to order occupier or owner to permit things to be done), in subsection (1)—
- (a) in paragraph (a) the words “or person having control” shall be omitted; and
  - (b) in paragraph (b) for the words “owner or person having control” there shall be substituted “ or owner ”.
- 38 In section 318 (power of court to authorise execution of works on unfit premises or for improvement), in subsection (1) for the word “houses” there shall be substituted “ dwelling-houses or houses in multiple occupation or both ”.
- 39 (1) In section 319 (powers of entry), in subsection (1) for the words “24 hours” there shall be substituted “ seven days ”.
- (2) At the end of subsection (2) of that section there shall be added the words “ and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ”.
- 40 (1) In section 320 (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “ intentionally ”.
- (2) In subsection (2) of that section for the words “level 2” there shall be substituted “ level 3 ”.
- 41 Section 321 (repair at reasonable expense) shall cease to have effect.
- <sup>F449</sup>42 .....

**Textual Amendments**

**F449** Sch. 9 para. 42 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\), s. 270\(4\)\(5\) \(f\), Sch. 16](#); [S.I. 2006/1060, art. 2\(1\)\(e\)](#) (with [Sch.](#)); [S.I. 2006/1535, art. 2\(c\)](#) (with [Sch.](#))

- 43 In section 323 (index of defined expressions: Part IX)—
- (a) the entries beginning “the full standard”, “general improvement area”, “house”, “land liable to be cleared”, “person having control”, “slum clearance functions”, “slum clearance subsidy” and “year” shall be omitted
  - <sup>F450</sup>(b) .....
  - (c) at the appropriate places in alphabetical order there shall be inserted the following entries—

“dwelling-house	sections 266 and 322
flat	section 322
house in multiple occupation	section 322
premises	section 322”

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**Textual Amendments**  
F450 Sch. 9 para. 43(b) repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**PART III**

**AMENDMENTS OF PART XI**

F451 44 .....

**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 45 .....

**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 46 .....

**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 47 .....

**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 48 .....

**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 49 .....

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**Textual Amendments**

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F451 50 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 51 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 52 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 53 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 54 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 55 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 56 .....

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F451 57 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 58 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 59 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 60 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 61 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 62 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 63 .....

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**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 64 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 65 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 66 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 67 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 68 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 69 .....

**Textual Amendments**

**F451** Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**F451** 70 .....

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**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), Sch. 16; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F451 71 .....

**Textual Amendments**  
F451 Sch. 9 paras. 44-71 repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), Sch. 16; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

**PART IV**

AMENDMENTS OF PART XVII

72 After section 578 (general enactments relating to compulsory purchase etc. apply subject to this Part) there shall be inserted the following section—

**“578A Modification of compulsory purchase order in case of acquisition of land for clearance.**

- (1) Subsection (2) applies where the local housing authority make a compulsory purchase order, within the meaning of the Acquisition of Land Act 1981, in respect of land they have determined to purchase under section 290 (acquisition of land comprised, surrounded by or adjoining a clearance area).
- (2) Where this subsection applies, the Secretary of State may, in accordance with section 13 of the Acquisition of Land Act 1981 (confirmation of order), confirm the order with modifications notwithstanding that the effect of the modifications made by him in excluding any land or buildings from the clearance area concerned is to sever the area into two or more separate and distinct areas; and, in such a case, the severance shall not prevent those areas from continuing to be treated as one clearance area for the purposes of the provisions of Part IX.”

73 Sections 579 to 581 (special provision as regards acquisition of land for clearance, incorporation of enactments relating to mineral rights and acquisition of commons, open spaces etc.) shall cease to have effect.

74 In section 582 (restriction on recovery of possession after making compulsory purchase order), in subsection (1), in paragraph (a) the words from “section 192” to “beyond repair) or” shall be omitted.

F452 75 .....

**Textual Amendments**  
F452 Sch. 9 para. 75 repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), Sch. 16; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

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- 76 Sections 585 to 595 (which concern site value compensation for unfit houses and related matters and certain other land compensation matters) shall cease to have effect.
- 77 Section 598 (disregard of things done to obtain increased compensation) shall cease to have effect.
- 78 In section 599 (application of compensation due to another local authority) the words from “section 192” to “beyond repair” shall be omitted.
- 79 (1) In section 600 (powers of entry), in subsection (1) for the words “24 hours” there shall be substituted “ seven days ”.
- (2) At the end of subsection (2) of that section there shall be added the words “ and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ”.
- 80 (1) In section 601 (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “ intentionally ”.
- (2) In subsection (2) of that section for the words “level 2” there shall be substituted “ level 3 ”.
- 81 In section 602 (minor definitions)—
- (a) the definition of “house” shall be omitted; and
- (b) in paragraph (b) of the definition of “owner” after the word “premises” there shall be inserted “ or part of the premises ”.
- 82 For section 603 (index of defined expressions: Part XVII) there shall be substituted the following section—

**“603 Index of defined expressions: Part XVII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or otherwise explaining an expression used in the same section or paragraph):—

**PART V**

**AMENDMENTS OF PART XVIII**

F453 83 .....

**Textual Amendments**

F453 Sch. 9 para. 83 repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), Sch. 16; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

F454 84 .....

**Textual Amendments**

F454 Sch. 9 para. 84 repealed (6.4.2006 for E., 16.6.2006 for W.) by Housing Act 2004 (c. 34), s. 270(4)(5) (f), Sch. 16; S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

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85 For section 605 there shall be substituted the following section—

**“605 Consideration by local housing authority of housing conditions in their district.**

- (1) The local housing authority shall at least once in each year consider the housing conditions in their district with a view to determining what action to take in performance of their functions under—
  - (a) Part VI (repair notices);
  - (b) Part IX (slum clearance);
  - (c) Part XI (houses in multiple occupation);
  - (d) Part VII of the Local Government and Housing Act 1989 (renewal areas); and
  - (e) Part VIII of that Act (grants towards cost of improvements and repairs etc.).
- (2) For the purposes of carrying out their duty under subsection (1), the authority and their officers shall comply with any directions the Secretary of State may give and shall keep such records and supply him with such information as he may specify.”

F455 86 .....

**Textual Amendments**  
**F455** Sch. 9 para. 86 repealed (6.4.2006 for E., 16.6.2006 for W.) by [Housing Act 2004 \(c. 34\)](#), s. 270(4)(5) (f), [Sch. 16](#); S.I. 2006/1060, art. 2(1)(e) (with Sch.); S.I. 2006/1535, art. 2(c) (with Sch.)

87 In section 608 (acquisition of ancient monuments etc.), in paragraph (a) the words from “section 192” to “beyond repair) or” shall be omitted.

88 In section 610 (power of court to authorise conversion of houses into flats), in subsection (1)—

- (a) for the words “a house” there shall be substituted “ any premises ”;
- (b) for the word “house”, in each subsequent place where it occurs, there shall be substituted “ premises ”; and
- (c) in paragraph (a) for the words “is situated, it” there shall be substituted “ are situated, they ” and for the words “tenement” and “tenements” there shall be substituted “ dwelling-house ” and “ dwelling-houses ” respectively.

89 In section 612 (exclusion of Rent Act protection) for the word “house” there shall be substituted “ dwelling-house ”.

90 (1) In section 623 (minor definitions: Part XVIII), for the definition of “house” there shall be substituted—

““dwelling-house” and “flat”, except in the expression “flat in multiple occupation”, shall be construed in accordance with subsection (2);

“house in multiple occupation” and “flat in multiple occupation” have the same meaning as in Part XI.”

(2) At the end of that section there shall be inserted the following subsection—



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“(2) For the purposes of this Part, “dwelling-house” includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.”

- 91 In section 624 (index of defined expressions: Part XVIII)—
- (a) the entry beginning “house” shall be omitted; and
  - (b) at the appropriate places in alphabetical order there shall be inserted the following entries—

“dwelling-house	section 623”
“flat	section 623”
“flat in multiple occupation	section 623”
“house in multiple occupation	section 623”

## SCHEDULE 10

Section 186.

### SECURITY OF TENURE ON ENDING OF LONG RESIDENTIAL TENANCIES

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

C115 Sch. 10 excluded (1.11.1993) by 1993 c. 28, s. 59(2)(b)(i) (with ss. 94(2), 95); S.I. 1993/2134, arts. 2, 5(a)

#### *Preliminary*

- 1 (1) This Schedule applies to a long tenancy of a dwelling-house at a low rent as respects which for the time being the following condition (in this Schedule referred to as “the qualifying condition”) is fulfilled, that is to say, that the circumstances (as respects the property let under the tenancy, the use of that property and all other relevant matters) are such that, if the tenancy were not at a low rent, it would at that time be an assured tenancy within the meaning of Part I of the <sup>M198</sup>Housing Act 1988.
- (2) For the purpose only of determining whether the qualifying condition is fulfilled with respect to a tenancy, Schedule 1 to the Housing Act 1988 (tenancies which cannot be assured tenancies) shall have effect with the omission of paragraph 1 (which excludes tenancies entered into before, or pursuant to contracts made before, the coming into force of Part I of that Act).
- [<sup>F456</sup>(2A) For the purpose only of determining whether the qualifying condition is fulfilled with respect to a tenancy which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house has a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), for paragraph 2(1)(b) and (2) of Schedule 1 to the Housing Act <sup>M199</sup>1988 there shall be substituted—
- “(b) where (on the date the contract for the grant of the tenancy was made or, if there was no such contract, on the date the tenancy was entered into) R exceeded £25,000 under the formula—

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$$R = \frac{P \times I}{1 - (1 + I)^{-T}} - T$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06,

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy).”].

- (3) At any time within the period of twelve months ending on the day preceding the term date, application may be made to the court as respects any long tenancy of a dwelling-house at a low rent, not being at the time of the application a tenancy as respects which the qualifying condition is fulfilled, for an order declaring that the tenancy is not to be treated as a tenancy to which this Schedule applies.
- (4) Where an application is made under sub-paragraph (3) above—
- (a) the court, if satisfied that the tenancy is not likely immediately before the term date to be a tenancy to which this Schedule applies but not otherwise, shall make the order; and
  - (b) if the court makes the order, then, notwithstanding anything in sub-paragraph (1) above the tenancy shall not thereafter be treated as a tenancy to which this Schedule applies.
- (5) A tenancy to which this Schedule applies is hereinafter referred to as a long residential tenancy.
- (6) Anything authorised or required to be done under the following provisions of this Schedule in relation to a long residential tenancy shall, if done before the term date in relation to a long tenancy of a dwelling-house at a low rent, not be treated as invalid by reason only that at the time at which it was done the qualifying condition was not fulfilled as respects the tenancy.
- (7) In determining for the purposes of any provision of this Schedule whether the property let under a tenancy was let as a separate dwelling, the nature of the property at the time of the creation of the tenancy shall be deemed to have been the same as its nature at the time in relation to which the question arises, and the purpose for which it was let under the tenancy shall be deemed to have been the same as the purpose for which it is or was used at the last-mentioned time.
- [<sup>F457</sup>(8) The Secretary of State may by order replace the number in the definition of “I” in sub-paragraph (2A) above and any amount referred to in that sub-paragraph and paragraph 2(4)(b) below by such number or amount as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F456** Sch. 10 para. 1(2A) inserted by S.I. 1990/434, reg. 2, Sch. para. 31

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**F457** Sch. 10 para. 1(8) inserted by S.I. 1990/434, reg. 2, Sch. para. 32

#### Marginal Citations

**M198** 1988 c. 50.

**M199** 1988 c.50 (75:1).

- 2 (1) This paragraph has effect for the interpretation of certain expressions used in this Schedule.
- (2) Except where the context otherwise requires, expressions to which a meaning is assigned for the purposes of the 1988 Act or Part I of that Act have the same meaning in this Schedule.
- (3) “Long tenancy” means a tenancy granted for a term of years certain exceeding 21 years, whether or not subsequently extended by act of the parties or by any enactment, but excluding any tenancy which is, or may become, terminable before the end of the term by notice given to the tenant.
- [<sup>F458</sup>(4) A tenancy is “at a low rent” if under the tenancy—
- (a) no rent is payable,
  - (b) where the tenancy is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), the maximum rent payable at any time is payable at a rate of—
    - (i) £1,000 or less a year if the dwelling-house is in Greater London and,
    - (ii) £250 or less a year if the dwelling-house is elsewhere, or,
  - (c) where the tenancy was entered into before 1st April 1990 or (where the dwelling-house had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date, and the maximum rent payable at any time under the tenancy is less than two-thirds of the rateable value of the dwelling-house on 31st March 1990.]
- (5) [<sup>F459</sup>Paragraph 2(2)] of Schedule 1 to the 1988 Act applies to determine whether the rent under a tenancy falls within sub-paragraph (4) above and Part II of that Schedule applies to determine the rateable value of a dwelling-house for the purposes of that sub-paragraph.
- (6) “Long residential tenancy” and “qualifying condition” have the meaning assigned by paragraph 1 above and the following expressions shall be construed as follows—
- “the 1954 Act” means the <sup>M200</sup>Landlord and Tenant Act 1954;
  - “the 1988 Act” means the <sup>M201</sup>Housing Act 1988;
  - “assured periodic tenancy” shall be construed in accordance with paragraph 9(4) below;
  - “the date of termination” has the meaning assigned by paragraph 4(4) below;
  - “disputed terms” shall be construed in accordance with paragraph 11(1) (a) below;
  - “election by the tenant to retain possession” shall be construed in accordance with paragraph 4(7) below;
  - “former 1954 Act tenancy” means a tenancy to which, by virtue of section 186(3) of this Act, this Schedule applies on and after 15th January 1999;

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- “the implied terms” shall be construed in accordance with paragraph 4(5) (a) below;
- “landlord” shall be construed in accordance with paragraph 19(1) below;
- “landlord’s notice” means a notice under sub-paragraph (1) of paragraph 4 below and such a notice is—
- (a) a “landlord’s notice proposing an assured tenancy” if it contains such proposals as are mentioned in sub-paragraph (5)(a) of that paragraph; and
- (b) a “landlord’s notice to resume possession” if it contains such proposals as are referred to in sub-paragraph (5)(b) of that paragraph;
- “specified date of termination”, in relation to a tenancy in respect of which a landlord’s notice is served, means the date specified in the notice as mentioned in paragraph 4(1)(a) below;
- “tenant’s notice” shall be construed in accordance with paragraph 10(1) (a) below;
- “term date”, in relation to a tenancy granted for a term of years certain, means the date of expiry of that term;
- “the terms of the tenancy specified in the landlord’s notice” shall be construed in accordance with paragraph 4(6) below; and
- “undisputed terms” shall be construed in accordance with paragraph 11(2) below.

#### **Textual Amendments**

**F458** Sch. 10 para. 2(4) substituted by S.I. 1990/434, reg. 2, Sch. para. 33

**F459** Words substituted by S.I. 1990/434, reg. 2, Sch. para. 34

#### **Marginal Citations**

**M200** 1954 c. 56.

**M201** 1988 c. 50.

### *Continuation of long residential tenancies*

- 3 (1) A tenancy which, immediately before the term date, is a long residential tenancy shall not come to an end on that date except by being terminated under the provisions of this Schedule, and, if not then so terminated, shall subject to those provisions continue until so terminated and, while continuing by virtue of this paragraph, shall be deemed to be a long residential tenancy (notwithstanding any change in circumstances).
- (2) Sub-paragraph (1) above does not apply in the case of a former 1954 Act tenancy the term date of which falls before 15th January 1999 but if, in the case of such a tenancy,—
- (a) the tenancy is continuing immediately before that date by virtue of section 3 of the 1954 Act, and
- (b) on that date the qualifying condition (as defined in paragraph 1(1) above) is fulfilled,
- then, subject to the provisions of this Schedule, the tenancy shall continue until terminated under those provisions and, while continuing by virtue of this paragraph,

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shall be deemed to be a long residential tenancy (notwithstanding any change in circumstances).

- (3) Where by virtue of this paragraph a tenancy continues after the term date, the tenancy shall continue at the same rent and in other respects on the same terms as before the term date.

#### *Termination of tenancy by the landlord*

- 4 (1) Subject to sub-paragraph (2) below and the provisions of this Schedule as to the annulment of notices in certain cases, the landlord may terminate along residential tenancy by a notice in the prescribed form served on the tenant—
- (a) specifying the date at which the tenancy is to come to an end, being either the term date or a later date; and
  - (b) so served not more than twelve nor less than six months before the date so specified.
- (2) In any case where—
- (a) a landlord’s notice has been served, and
  - (b) an application has been made to the court or a rent assessment committee under the following provisions of this Schedule other than paragraph 6, and
  - (c) apart from this paragraph, the effect of the notice would be to terminate the tenancy before the expiry of the period of three months beginning with the date on which the application is finally disposed of,
- the effect of the notice shall be to terminate the tenancy at the expiry of the said period of three months and not at any other time.
- (3) The reference in sub-paragraph (2)(c) above to the date on which the application is finally disposed of shall be construed as a reference to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the date of withdrawal or abandonment.
- (4) In this Schedule “the date of termination”, in relation to a tenancy in respect of which a landlord’s notice is served, means,—
- (a) where the tenancy is continued as mentioned in sub-paragraph (2) above, the last day of the period of three months referred to in that sub-paragraph; and
  - (b) in any other case, the specified date of termination.
- (5) A landlord’s notice shall not have effect unless—
- (a) it proposes an assured monthly periodic tenancy of the dwelling-house and a rent for that tenancy (such that it would not be a tenancy at a low rent) and, subject to sub-paragraph (6) below, states that the other terms of the tenancy shall be the same as those of the long residential tenancy immediately before it is terminated (in this Schedule referred to as “the implied terms”); or
  - (b) it gives notice that, if the tenant is not willing to give up possession at the date of termination of the property let under the tenancy, the landlord proposes to apply to the court, on one or more of the grounds specified in paragraph 5(1) below, for the possession of the property let under the tenancy and states the ground or grounds on which he proposes to apply.

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- (6) In the landlord’s notice proposing an assured tenancy the landlord may propose terms of the tenancy referred to in sub-paragraph (5)(a) above different from the implied terms; and any reference in the following provisions of this Schedule to the terms of the tenancy specified in the landlord’s notice is a reference to the implied terms or, if the implied terms are varied by virtue of this sub-paragraph, to the implied terms as so varied.
- (7) A landlord’s notice shall invite the tenant, within the period of two months beginning on the date on which the notice was served, to notify the landlord in writing whether, —
- (a) in the case of a landlord’s notice proposing an assured tenancy, the tenant wishes to remain in possession; and
  - (b) in the case of a landlord’s notice to resume possession, the tenant is willing to give up possession as mentioned in sub-paragraph (5)(b) above;
- and references in this Schedule to an election by the tenant to retain possession are references to his notifying the landlord under this sub-paragraph that he wishes to remain in possession or, as the case may be, that he is not willing to give up possession.
- 5 (1) Subject to the following provisions of this paragraph, the grounds mentioned in paragraph 4(5)(b) above are—
- (a) Ground 6 in, and those in Part II of, Schedule 2 to the 1988 Act, other than Ground 16;
  - (b) the ground that, for the purposes of redevelopment after the termination of the tenancy, the landlord proposes to demolish or reconstruct the whole or a substantial part of the premises; and
  - (c) the ground that the premises or part of them are reasonably required by the landlord for occupation [<sup>F460</sup>as a residence for—
    - (i) himself,
    - (ii) any son or daughter of his over eighteen years of age,
    - (iii) his father or mother, or
    - (iv) the father, or mother, of his spouse or civil partner,
 and,] if the landlord is not the immediate landlord, that he will be at the specified date of termination.
- (2) Ground 6 in Schedule 2 to the 1988 Act may not be specified in a landlord’s notice to resume possession if the tenancy is a former 1954 Act tenancy; and in the application of that Ground in accordance with sub-paragraph (1) above in any other case, paragraph (c) shall be omitted.
- (3) In its application in accordance with sub-paragraph (1) above, Ground 10 in Schedule 2 to the 1988 Act shall have effect as if, in paragraph (b)—
- (a) the words “except where subsection (1)(b) of section 8 of this Act applies” were omitted; and
  - (b) for the words “notice under that section relating to those proceedings” there were substituted “ landlord’s notice to resume possession (within the meaning of Schedule 10 to the Local Government and Housing Act 1989) ”.
- (4) The ground mentioned in sub-paragraph (1)(b) above may not be specified in a landlord’s notice to resume possession unless the landlord is a body to which section 28 of the <sup>M202</sup>Leasehold Reform Act 1967 applies and the premises are

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required for relevant development within the meaning of that section; and on any application by such a body under paragraph 13 below for possession on that ground, a certificate given by a Minister of the Crown as provided by subsection (1) of that section shall be conclusive evidence that the premises are so required.

- (5) The ground mentioned in sub-paragraph (1)(c) above may not be specified in a landlord's notice to resume possession if the interest of the landlord, or an interest which is merged in that interest and but for the merger would be the interest of the landlord, was purchased or created after 18th February 1966.

#### Textual Amendments

**F460** Words in Sch. 10 para. 5(1)(c) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(2), Sch. 8 para. 46; S.I. 2005/3175, art. 2(1), Sch. 1

#### Marginal Citations

**M202** 1967 c. 88.

#### *Interim rent*

- 6 (1) On the date of service of a landlord's notice proposing an assured tenancy, or at any time between that date and the date of termination, the landlord may serve a notice on the tenant in the prescribed form proposing an interim monthly rent to take effect from a date specified in the notice, being not earlier than the specified date of termination, and to continue while the tenancy is continued by virtue of the preceding provisions of this Schedule.
- (2) Where a notice has been served under sub-paragraph (1) above,—
- (a) within the period of two months beginning on the date of service, the tenant may refer the interim monthly rent proposed in the notice to a rent assessment committee; and
  - (b) if the notice is not so referred, then, with effect from the date specified in the notice or, if it is later, the expiry of the period mentioned in paragraph (a) above, the interim monthly rent proposed in the notice shall be the rent under the tenancy.
- (3) Where, under sub-paragraph (2) above, the rent specified in a landlord's notice is referred to a rent assessment committee, the committee shall determine the monthly rent at which, subject to sub-paragraph (4) below, the committee consider that the premises let under the tenancy might reasonably be expected to be let on the open market by a willing landlord under a monthly periodic tenancy—
- (a) which begins on the day following the specified date of termination;
  - (b) under which the other terms are the same as those of the existing tenancy at the date on which was given the landlord's notice proposing an assured tenancy; and
  - (c) which affords the tenant security of tenure equivalent to that afforded by Chapter I of Part I of the 1988 Act in the case of an assured tenancy (other than an assured shorthold tenancy) in respect of which possession may not be recovered under any of Grounds 1 to 5 in Part I of Schedule 2 to that Act.
- (4) Subsections (2), [F461(3A)], (4) and (5) of section 14 of the 1988 Act shall apply in relation to a determination of rent under sub-paragraph (3) above as they apply in



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relation to a determination under that section subject to the modifications in sub-paragraph (5) below; and in this paragraph “rent” shall be construed in accordance with subsection (4) of that section.

- (5) The modifications of section 14 of the 1988 Act referred to in sub-paragraph (4) above are that in subsection (2), the reference in paragraph (b) to a relevant improvement being carried out shall be construed as a reference to an improvement being carried out during the long residential tenancy and the reference in paragraph (c) to a failure to comply with any term of the tenancy shall be construed as a reference to a failure to comply with any term of the long residential tenancy.
- (6) Where a reference has been made to a rent assessment committee under sub-paragraph (2) above, then, the rent determined by the committee (subject, in a case where section 14(5) of the 1988 Act applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the date specified in the notice served under sub-paragraph(1) above or, if it is later, the expiry of the period mentioned in paragraph(a) of sub-paragraph (2) above.

#### **Textual Amendments**

**F461** Word in [Sch. 10 para. 6\(4\)](#) inserted (1.4.1993) by [S.I. 1993/651, art. 2\(1\)](#), [Sch. 1 para.20](#)

- 7 (1) Nothing in paragraph 6 above affects the right of the landlord and the tenant to agree the interim monthly rent which is to have effect while the tenancy is continued by virtue of the preceding provisions of this Schedule and the date from which that rent is to take effect; and, in such a case,—
- (a) notwithstanding the provisions of paragraph 6 above, that rent shall be the rent under the tenancy with effect from that date; and
  - (b) no steps or, as the case may be, no further steps may be taken by the landlord or the tenant under the provisions of that paragraph.
- (2) Nothing in paragraph 6 above requires a rent assessment committee to continue with a determination under sub-paragraph (3) of that paragraph—
- (a) if the tenant gives notice in writing that he no longer requires such a determination; or
  - (b) if the long residential tenancy has come to an end on or before the specified date of termination.
- (3) Notwithstanding that a tenancy in respect of which an interim monthly rent has effect in accordance with paragraph 6 above or this paragraph is no longer at a low rent, it shall continue to be regarded as a tenancy at a low rent and, accordingly, shall continue to be a long residential tenancy.

#### *Termination of tenancy by the tenant*

- 8 (1) A long residential tenancy may be brought to an end at the term date by not less than one month’s notice in writing given by the tenant to his immediate landlord.
- (2) A tenancy which is continuing after the term date by virtue of paragraph 3 above may be brought to an end at any time by not less than one month’s notice in writing given by the tenant to his immediate landlord, whether the notice is given before or after the term date of the tenancy.



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- (3) The fact that the landlord has served a landlord's notice or that there has been an election by the tenant to retain possession shall not prevent the tenant from giving notice under this paragraph terminating the tenancy at a date earlier than the specified date of termination.

*The assured periodic tenancy*

- 9 (1) Where a long residential tenancy (in this paragraph referred to as “the former tenancy”) is terminated by a landlord's notice proposing an assured tenancy, then, subject to sub-paragraph (3) below, the tenant shall be entitled to remain in possession of the dwelling-house and his right to possession shall depend upon an assured periodic tenancy arising by virtue of this paragraph.
- (2) The assured periodic tenancy referred to in sub-paragraph (1) above is one—
- (a) taking effect in possession on the day following the date of termination;
  - (b) deemed to have been granted by the person who was the landlord under the former tenancy on the date of termination to the person who was then the tenant under that tenancy;
  - (c) under which the premises let are the dwelling-house;
  - (e) under which the periods of the tenancy, and the intervals at which rent is to be paid, are monthly beginning on the day following the date of termination;
  - (e) under which the rent is determined in accordance with paragraphs 10 to 12 below; and
  - (e) under which the other terms are determined in accordance with paragraphs 10 to 12 below.
- (3) If, at the end of the period of two months beginning on the date of service of the landlord's notice, the qualifying condition was not fulfilled as respects the tenancy, the tenant shall not be entitled to remain in possession as mentioned in sub-paragraph (1) above unless there has been an election by the tenant to retain possession; and if, at the specified date of termination, the qualifying condition is not fulfilled as respects the tenancy, then, notwithstanding that there has been such an election, the tenant shall not be entitled to remain in possession as mentioned in that sub-paragraph.
- (4) Any reference in the following provisions of this Schedule to an assured periodic tenancy is a reference to an assured periodic tenancy arising by virtue of this paragraph.

*Initial rent under and terms of assured periodic tenancy*

- 10 (1) Where a landlord's notice proposing an assured tenancy has been served on the tenant,—
- (a) within the period of two months beginning on the date of service of the notice, the tenant may serve on the landlord a notice in the prescribed form proposing either or both of the following, that is to say,—
    - (i) a rent for the assured periodic tenancy different from that proposed in the landlord's notice; and
    - (ii) terms of the tenancy different from those specified in the landlord's notice,
- and such a notice is in this Schedule referred to as a “tenant's notice”; and

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- (b) if a tenant’s notice is not so served, then, with effect from the date on which the assured periodic tenancy takes effect in possession,—
        - (i) the rent proposed in the landlord’s notice shall be the rent under the tenancy; and
        - (ii) the terms of the tenancy specified in the landlord’s notice shall be terms of the tenancy.
  - (2) Where a tenant’s notice has been served on the landlord under sub-paragraph (1) above—
    - (a) within the period of two months beginning on the date of service of the notice, the landlord may by an application in the prescribed form refer the notice to a rent assessment committee; and
    - (b) if the notice is not so referred, then, with effect from the date on which the assured periodic tenancy takes effect in possession,—
      - (i) the rent (if any) proposed in the tenant’s notice, or, if no rent is so proposed, the rent proposed in the landlord’s notice, shall be the rent under the tenancy; and
      - (ii) the other terms of the tenancy (if any) proposed in the tenant’s notice and, in so far as they do not conflict with the terms so proposed, the terms specified in the landlord’s notice shall be terms of the tenancy.
- 11 (1) Where, under sub-paragraph (2) of paragraph 10 above, a tenant’s notice is referred to a rent assessment committee, the committee, having regard only to the contents of the landlord’s notice and the tenant’s notice, shall decide—
- (a) whether there is any dispute as to the terms (other than those relating to the amount of the rent) of the assured periodic tenancy (in this Schedule referred to as “disputed terms”) and, if so, what the disputed terms are; and
  - (b) whether there is any dispute as to rent under the tenancy;
- and where the committee decide that there are disputed terms and that there is a dispute as to the rent under the tenancy, they shall make a determination under sub-paragraph (3) below before they make a determination under sub-paragraph (5) below.
- (2) Where, under paragraph 10(2) above, a tenant’s notice is referred to a rent assessment committee, any reference in this Schedule to the undisputed terms is a reference to those terms (if any) which—
    - (a) are proposed in the landlord’s notice or the tenant’s notice; and
    - (b) do not relate to the amount of the rent; and
    - (c) are not disputed terms.
  - (3) If the rent assessment committee decide that there are disputed terms, they shall determine whether the terms in the landlord’s notice, the terms in the tenant’s notice, or some other terms, dealing with the same subject matter as the disputed terms are such as, in the committee’s opinion, might reasonably be expected to be found in an assured monthly periodic tenancy of the dwelling-house (not being an assured shorthold tenancy)—
    - (a) which begins on the day following the date of termination;
    - (b) which is granted by a willing landlord on terms which, except so far as they relate to the subject matter of the disputed terms, are the undisputed terms; and
    - (c) in respect of which possession may not be recovered under any of Grounds 1 to 5 in Part I of Schedule 2 to the 1988 Act;

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and the committee shall, if they consider it appropriate, specify an adjustment of the undisputed terms to take account of the terms so determined and shall, if they consider it appropriate, specify an adjustment of the rent to take account of the terms so determined and, if applicable, so adjusted.

- (4) In making a determination under sub-paragraph (3) above, or specifying an adjustment of the rent or undisputed terms under that sub-paragraph, there shall be disregarded any effect on the terms or the amount of rent attributable to the granting of a tenancy to a sitting tenant.
- (5) If the rent assessment committee decide that there is a dispute as to the rent under the assured periodic tenancy, the committee shall determine the monthly rent at which, subject to sub-paragraph (6) below, the committee consider that the dwelling-house might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy (not being an assured shorthold tenancy)—
  - (a) which is a monthly periodic tenancy;
  - (b) which begins on the day following the date of termination;
  - (c) in respect of which possession may not be recovered under any of Grounds 1 to 5 in Part I of Schedule 2 to the 1988 Act; and
  - (d) the terms of which (other than those relating to the amount of the rent) are the same as—
    - (i) the undisputed terms; or
    - (ii) if there has been a determination under sub-paragraph (3) above, the terms determined by the committee under that sub-paragraph and the undisputed terms (as adjusted, if at all, under that sub-paragraph).
- (6) Subsections (2), [F<sup>462</sup>(3A)],(4) and (5) of section 14 of the 1988 Act shall apply in relation to a determination of rent under sub-paragraph (5) above as they apply in relation to a determination under that section subject to the modifications in sub-paragraph (7) below; and in this paragraph “rent” shall be construed in accordance with subsection (4) of that section.
- (7) The modifications of section 14 of the 1988 Act referred to in sub-paragraph (6) above are that in subsection (2), the reference in paragraph (b) to a relevant improvement being carried out shall be construed as a reference to an improvement being carried out during the long residential tenancy and the reference in paragraph (c) to a failure to comply with any term of the tenancy shall be construed as a reference to a failure to comply with any term of the long residential tenancy.
- (8) Where a reference has been made to a rent assessment committee under sub-paragraph (2) of paragraph 10 above, then,—
  - (a) if the committee decide that there are no disputed terms and that there is no dispute as to the rent, paragraph 10(2)(b) above shall apply as if the notice had not been so referred,
  - (b) where paragraph (a) above does not apply then, so far as concerns the amount of the rent under the tenancy, if there is a dispute as to the rent, the rent determined by the committee (subject, in a case where section 14(5) of the 1988 Act applies, to the addition of the appropriate amount in respect of rates) and, if there is no dispute as to the rent, the rent specified in the landlord’s notice or, as the case may be, the tenant’s notice (subject to any adjustment under sub-paragraph (3) above) shall be the rent under the tenancy, and

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(c) where paragraph (a) above does not apply and there are disputed terms, then, so far as concerns the subject matter of those terms, the terms determined by the committee under sub-paragraph (3) above shall be terms of the tenancy and, so far as concerns any undisputed terms, those terms (subject to any adjustment under sub-paragraph (3) above) shall also be terms of the tenancy, with effect from the date on which the assured periodic tenancy takes effect in possession.

(9) Nothing in this Schedule affects the right of the landlord and the tenant under the assured periodic tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

#### **Textual Amendments**

**F462** Word in **Sch. 10 para. 11(6)** inserted (1.4.1993) by **S.I. 1993/651, art. 2(1), Sch. 1 para.20**

12 (1) Subsections (2) to (4) of section 41 of the 1988 Act (rent assessment committees: information powers) shall apply where there is a reference to a rent assessment committee under the preceding provisions of this Schedule as they apply where a matter is referred to such a committee under Chapter I or Chapter II of Part I of the 1988 Act.

(2) Nothing in paragraph 10 or paragraph 11 above affects the right of the landlord and the tenant to agree any terms of the assured periodic tenancy (including a term relating to the rent) before the tenancy takes effect in possession (in this sub-paragraph referred to as “the expressly agreed terms”); and, in such case,—

(a) the expressly agreed terms shall be terms of the tenancy in substitution for any terms dealing with the same subject matter which would otherwise, by virtue of paragraph 10 or paragraph 11 above, be terms of the tenancy; and

(b) where a reference has already been made to a rent assessment committee under sub-paragraph (2) of paragraph 10 above but there has been no determination by the committee under paragraph 11 above,—

(i) the committee shall have regard to the expressly agreed terms, as notified to them by the landlord and the tenant, in deciding, for the purposes of paragraph 11 above, what the disputed terms are and whether there is any dispute as to the rent; and

(ii) in making any determination under paragraph 11 above the committee shall not make any adjustment of the expressly agreed terms, as so notified.

(3) Nothing in paragraph 11 above requires a rent assessment committee to continue with a determination under that paragraph—

(a) if the long residential tenancy has come to an end; or

(b) if the landlord serves notice in writing on the committee that he no longer requires such a determination;

and, where the landlord serves notice as mentioned in paragraph (b) above, then, for the purposes of sub-paragraph (2) of paragraph 10 above, the landlord shall be treated as not having made a reference under paragraph (a) of that sub-paragraph and, accordingly, paragraph (b) of that sub-paragraph shall, subject to sub-paragraph (2) above, have effect for determining rent and other terms of the assured periodic tenancy.

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### *Landlord's application for possession*

- 13 (1) Where a landlord's notice to resume possession has been served on the tenant and either—
- (a) there is an election by the tenant to retain possession, or
  - (b) at the end of the period of two months beginning on the date of service of the notice, the qualifying condition is fulfilled as respects the tenancy,
- the landlord may apply to the court for an order under this paragraph on such of the grounds mentioned in paragraph 5(1) above as may be specified in the notice.
- (2) The court shall not entertain an application under sub-paragraph (1) above unless the application is made—
- (a) within the period of two months beginning on the date of the election by the tenant to retain possession; or
  - (b) if there is no election by the tenant to retain possession, within the period of four months beginning on the date of service of the landlord's notice.
- (3) Where the ground or one of the grounds for claiming possession specified in the landlord's notice is Ground 6 in Part I of Schedule 2 to the 1988 Act, then, if on an application made under sub-paragraph (1) above the court is satisfied that the landlord has established that ground, the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.
- (4) Subject to sub-paragraph (6) below, where the ground or one of the grounds for claiming possession specified in the landlord's notice is any of Grounds 9 to 15 in Part II of Schedule 2 to the 1988 Act or the ground mentioned in paragraph 5(1)(c) above, then, if on an application made under sub-paragraph (1) above the court is satisfied that the landlord has established that ground and that it is reasonable that the landlord should be granted possession, the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.
- (5) Part III of Schedule 2 to the 1988 Act shall have effect for supplementing Ground 9 in that Schedule (as that ground applies in relation to this Schedule) as it has effect for supplementing that ground for the purposes of that Act, subject to the modification that in paragraph 3(1), in the words following paragraph (b) the reference to the assured tenancy in question shall be construed as a reference to the long residential tenancy in question.
- (6) Where the ground or one of the grounds for claiming possession specified in the landlord's notice is that mentioned in paragraph 5(1)(c) above, the court shall not make the order mentioned in sub-paragraph (4) above on that ground if it is satisfied that, having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by making the order than by refusing to make it.
- (7) Where the ground or one of the grounds for claiming possession specified in the landlord's notice is that mentioned in paragraph 5(1)(b) above, then, if on an application made under sub-paragraph (1) above the court is satisfied that the landlord has established that ground and is further satisfied—
- (a) that on that ground possession of those premises will be required by the landlord on the date of termination, and
  - (b) that the landlord has made such preparations (including the obtaining or, if that is not reasonably practicable in the circumstances, preparations relating to the obtaining of any requisite permission or consent, whether from any

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authority whose permission or consent is required under any enactment or from the owner of any interest in any property) for proceeding with there development as are reasonable in the circumstances,

the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.

- 14 (1) Where, in a case falling within sub-paragraph (7) of paragraph 13 above, the court is not satisfied as mentioned in that sub-paragraph but would be satisfied if the date of termination of the tenancy had been such date (in this paragraph referred to as “the postponed date”) as the court may determine, being a date later, but not more than one year later, than the specified date of termination, the court shall, if the landlord so requires, make an order as mentioned in sub-paragraph (2) below.
- (2) The order referred to in sub-paragraph (1) above is one by which the court specifies the postponed date and orders—
- (a) that the tenancy shall not come to an end on the date of termination but shall continue thereafter, as respects the whole of the property let under the tenancy, at the same rent and in other respects on the same terms as before that date; and
  - (b) that, unless the tenancy comes to an end before the postponed date, the tenant shall on that date give up possession of the property then let under the tenancy.
- (3) Notwithstanding the provisions of paragraph 13 above and the preceding provisions of this paragraph and notwithstanding that there has been an election by the tenant to retain possession, if the court is satisfied, at the date of the hearing, that the qualifying condition is not fulfilled as respects the tenancy, the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.
- (4) Nothing in paragraph 13 above or the preceding provisions of this paragraph shall prejudice any power of the tenant under paragraph 8 above to terminate the tenancy; and sub-paragraph (2) of that paragraph shall apply where the tenancy is continued by an order under sub-paragraph (2) above as it applies where the tenancy is continued by virtue of paragraph 3 above.

*Provisions where tenant not ordered to give up possession*

- 15 (1) The provisions of this paragraph shall have effect where the landlord is entitled to make an application under sub-paragraph (1) of paragraph 13 above but does not obtain an order under that paragraph or paragraph 14 above.
- (2) If at the expiration of the period within which an application under paragraph 13(1) above may be made the landlord has not made such an application, the landlord’s notice to resume possession, and anything done in pursuance thereof, shall cease to have effect.
- (3) If before the expiration of the period mentioned in sub-paragraph (2) above the landlord has made an application under paragraph 13(1) above but the result of the application, at the time when it is finally disposed of, is that no order is made, the landlord’s notice to resume possession shall cease to have effect.
- (4) In any case where sub-paragraph (3) above applies, then, if within the period of one month beginning on the date that the application to the court is finally disposed of the landlord serves on the tenant a landlord’s notice proposing an assured tenancy, the

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earliest date which may be specified in the notice as the date of termination shall, notwithstanding anything in paragraph 4(1)(b) above, be the day following the last day of the period of four months beginning on the date of service of the subsequent notice.

- (5) The reference in sub-paragraphs (3) and (4) above to the time at which an application is finally disposed of shall be construed as a reference to the earliest time at which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and anytime for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the time of withdrawal or abandonment.
- (6) A landlord's notice to resume possession may be withdrawn at any time by notice in writing served on the tenant (without prejudice, however, to the power of the court to make an order as to costs if the notice is withdrawn after the landlord has made an application under paragraph 13(1) above).
- (7) In any case where sub-paragraph (6) above applies, then, if within the period of one month beginning on the date of withdrawal of the landlord's notice to resume possession the landlord serves on the tenant a landlord's notice proposing an assured tenancy, the earliest date which may be specified in the notice as the date of termination shall, notwithstanding anything in paragraph 4(1)(b) above, be the day following the last day of the period of four months beginning on the date of service of the subsequent notice or the day following the last day of the period of six months beginning on the date of service of the withdrawn notice, whichever is the later.

#### *Tenancies granted in continuation of long tenancies*

- 16 (1) Where on the coming to the end of a tenancy at a low rent the person who was the tenant immediately before the coming to an end thereof becomes (whether by grant or by implication of the law) the tenant under another tenancy at a low rent of a dwelling-house which consists of the whole or any part of the property let under the previous tenancy, then, if the previous tenancy was a long tenancy or is deemed by virtue of this paragraph to have been a long tenancy, the new tenancy shall be deemed for the purposes of this Schedule to be a long tenancy, irrespective of its terms.
- (2) In relation to a tenancy from year to year or other tenancy not granted for a term of years certain, being a tenancy which by virtue of sub-paragraph (1) above is deemed for the purposes of this Schedule to be a long tenancy, the preceding provisions of this Schedule shall have effect subject to the modifications set out below.
- (3) In sub-paragraph (6) of paragraph 2 above for the expression beginning "term date" there shall be substituted—

"“term date”, in relation to any such tenancy as is mentioned in paragraph 16(2) below, means the first date after the coming into force of this Schedule on which, apart from this Schedule, the tenancy could have been brought to an end by notice to quit given by the landlord”.
- (4) Notwithstanding anything in sub-paragraph (3) of paragraph 3 above, whereby virtue of that paragraph the tenancy is continued after the term date, the provisions of this Schedule as to the termination of a tenancy by notice shall have effect, subject to sub-paragraph (5) below, in substitution for and not in addition to any such provisions included in the terms on which the tenancy had effect before the term date.

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- (5) The minimum period of notice referred to in paragraph 8(1) above shall be one month or such longer period as the tenant would have been required to give to bring the tenancy to an end at the term date.
- (6) Where the tenancy is not terminated under paragraph 4 or paragraph 8 above at the term date, then, whether or not it would have continued after that date apart from the provisions of this Schedule, it shall be treated for the purposes of those provisions as being continued by virtue of paragraph 3 above.

*Agreements as to the grant of new tenancies*

- 17 In any case where, prior to the date of termination of a long residential tenancy, the landlord and the tenant agree for the grant to the tenant of a future tenancy of the whole or part of the property let under the tenancy at a rent other than a low rent and on terms and from a date specified in the agreement, the tenancy shall continue until that date but no longer; and, in such a case, the provisions of this Schedule shall cease to apply in relation to the tenancy with effect from the date of the agreement.

*Assumptions on which to determine future questions*

- 18 Where under this Schedule any question falls to be determined by the court or a rent assessment committee by reference to circumstances at a future date, the court or committee shall have regard to all rights, interests and obligations under or relating to the tenancy as they subsist at the time of the determination and to all relevant circumstances as those then subsist and shall assume, except in so far as the contrary is shown, that those rights, interests, obligations and circumstances will continue to subsist unchanged until that future date.

*Landlords and mortgagees in possession*

- 19 (1) Section 21 of the 1954 Act (meaning of “the landlord” and provisions as to mesne landlords) shall apply in relation to this Schedule as it applies in relation to Part I of that Act but subject to the following modifications—
  - (a) any reference to Part I of that Act shall be construed as a reference to this Schedule; and
  - (b) subsection (4) (which relates to statutory tenancies arising under that Part) shall be omitted.
- (2) Section 67 of the 1954 Act (mortgagees in possession) applies for the purposes of this Schedule except that for the reference to that Act there shall be substituted a reference to this Schedule.
- (3) In accordance with sub-paragraph (1) above, Schedule 5 to the 1954 Act shall also apply for the purpose of this Schedule but subject to the following modifications—
  - (a) any reference to Part I of the 1954 Act shall be construed as a reference to the provisions of this Schedule (other than this sub-paragraph);
  - (b) any reference to section 21 of the 1954 Act shall be construed as a reference to that section as it applies in relation to this Schedule;
  - (c) any reference to subsection (1) of section 4 of that Act shall be construed as a reference to sub-paragraph (1) of paragraph 4 above;
  - (d) any reference to the court includes a reference to a rent assessment committee;



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- (e) paragraphs 6 to 8 and 11 shall be omitted;
- (f) any reference to a particular subsection of section 16 of the 1954 Act shall be construed as a reference to that subsection as it applies in relation to this Schedule;
- (g) any reference to a tenancy to which section 1 of the 1954 Act applies shall be construed as a reference to a long residential tenancy; and
- (h) expressions to which a meaning is assigned by any provision of this Schedule (other than this sub-paragraph) shall be given that meaning.

*Application of other provisions of the 1954 Act*

- 20 (1) Section 16 of the 1954 Act (relief for tenant where landlord proceeding to enforce covenants) shall apply in relation to this Schedule as it applies in relation to Part I of that Act but subject to the following modifications—
- (a) in subsection (1) the reference to a tenancy to which section 1 of the 1954 Act applies shall be construed as a reference to a long residential tenancy;
  - (b) in subsection (2) the reference to Part I of that Act shall be construed as a reference to this Schedule;
  - (c) subsection (3) shall have effect as if the words “(without prejudice to section ten of this Act)” were omitted; and
  - (d) in subsection (7) the reference to subsection (3) of section 2 of the 1954 Act shall be construed as a reference to paragraph 1(6) above.
- (2) Section 55 of the 1954 Act (compensation for possession obtained by misrepresentation) shall apply in relation to this Schedule as it applies in relation to Part I of that Act.
- (3) Section 63 of the <sup>M203</sup>1954 Act (jurisdiction of court for purposes of Parts I and II of the 1954 Act and of Part I of the Landlord and Tenant Act 1927) shall apply in relation to this Schedule and section 186 of this Act as it applies in relation to Part I of that Act.
- (4) Section 65 of the 1954 Act (provisions as to reversions) applies for the purposes of this Schedule except that for any reference to that Act there shall be substituted a reference to this Schedule.
- (5) Subsection (4) of section 66 of the 1954 Act (service of notices) shall apply in relation to this Schedule as it applies in relation to that Act.

**Marginal Citations**

M203 1980 c. 45.

- 21 (1) Where this Schedule has effect in relation to a former 1954 Act tenancy the term date of which falls before 15th January 1999, any reference (however expressed) in the preceding provisions of this Schedule to the dwelling-house (or the property) let under the tenancy shall have effect as a reference to the premises qualifying for protection, within the meaning of the 1954 Act.
- (2) Notwithstanding that at any time section 1 of the 1954 Act does not, and this Schedule does, apply to a former 1954 Act tenancy, any question of what are the premises qualifying for protection or (in that context) what is the tenancy shall be determined for the purposes of this Schedule in accordance with Part I of that Act.

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*Crown application*

- 22 (1) This Schedule shall apply where—
- (a) there is an interest belonging to Her Majesty in right of the Crown and that interest is under the management of the Crown Estate Commissioners, or
  - (b) there is an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall,
- as if it were an interest not so belonging.
- (2) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, then, for the purposes of this Schedule, the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.
- (3) Where an interest belongs to the Duchy of Cornwall, then, for the purposes of this Schedule, such person as the Duke of Cornwall, or other possessor for the time being of the Duchy of Cornwall, appoints shall be deemed to be the owner of the interest.

SCHEDULE 11

Section 194.

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Military Lands Act 1892*

- 1 In section 8 of the <sup>M204</sup>Military Lands Act 1892 (provisions as to disbandment of volunteer corps etc.) subsection (3) shall be omitted.

**Marginal Citations**

**M204** 1892 c. 43.

*The Small Holdings and Allotments Act 1908*

- 2 In section 52 of the <sup>M205</sup>Small Holdings and Allotments Act 1908 (borrowing powers and expenses) subsection (3) shall be omitted.

**Marginal Citations**

**M205** 1908 c. 36.

PROSPECTIVE

*The Prevention of Corruption Act 1916*

- 3 In section 4 of the <sup>M206</sup>Prevention of Corruption Act 1916 (short title and interpretation), at the end of subsection (2) (meaning of “public body”) there shall be added “ and companies which, in accordance with Part V of the Local Government and Housing Act 1989, are under the control of one or more local authorities ”.

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**Marginal Citations**

M206 1916 c. 64.

*The Education Act 1944*

F463<sup>4</sup> .....

**Textual Amendments**

F463 Sch. 11 para. 4 repealed (1.4.1994) by 1993 c. 35, s. 307(3), Sch. 21 Pt.II; S.I. 1994/507, art. 4, Sch. 2 Appendix

*The Sexual Offences Act 1956*

5 In Schedule 1 to the <sup>M207</sup>Sexual Offences Act 1956 (rights of landlord where tenant convicted of permitting use of premises as a brothel) at the end of paragraph 5 there shall be added “ Part I of the Housing Act 1988 and Schedule 10 to the Local Government and Housing Act 1989 ”.

**Marginal Citations**

M207 1956 c. 69.

*The Public Works Loans Act 1965*

F464<sup>6</sup> .....

**Textual Amendments**

F464 Sch. 11 para. 6 repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 8 Pt. 1; S.I. 2003/2938, art. 7(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

*The Public Works Loans Act 1967*

F465<sup>7</sup> .....

**Textual Amendments**

F465 Sch. 11 para. 7 repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 8 Pt. 1; S.I. 2003/2938, art. 7(e)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *The Leasehold Reform Act 1967*

- 8 In section 3 of the <sup>M208</sup>Leasehold Reform Act 1967 (meaning of “long tenancy”), in subsection (5) after “1954” there shall be inserted “ under Schedule 10 to the Local Government and Housing Act 1989 ”.

#### **Marginal Citations**

**M208** 1967 c. 88.

- 9 In section 9 of that Act (purchase price and costs of enfranchisement, and tenant’s right to withdraw), in subsection (1A), in paragraph (b) after the word “premises” there shall be inserted—

“(i) if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act 1989, or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954 in respect of which the landlord is notable to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and

(ii) in any other case”.

- <sup>F466</sup>[10 In section 16 of that Act (exclusion of further rights after extension of lease) after subsection (1A) there shall be inserted the following subsection—

“(1B) A tenancy extended under section 14 above shall not be an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of the Housing Act 1988, and Schedule 10 to the Local Government and Housing Act 1989 shall not apply to a tenancy so extended.”]

#### **Textual Amendments**

**F466** Sch. 11 para. 10 repealed (26.7.2002 for E. and 1.1.2003 for W. subject to transitional provisions and savings in Sch. 2 of each commencing S.I.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), s. 180, [Sch. 14](#); S.I. 2002/1912, [art. 2](#), Sch. 1 Pt. 3; S.I. 2002/3012, [art. 2](#), Sch. 1 Pt. 3

- 11 In section 22 of that Act (validity of tenants’ notices, effect on the 1954 Act and on notices to quit etc. and procedure generally), in subsection (1) after paragraph (c) there shall be inserted the following paragraph—

“(cc) for adapting the procedure under Schedule 10 to the Local Government and Housing Act 1989, and for relating to one another proceedings under that Schedule and proceedings under this Part of this Act; and”.

- 12 In section 37 of that Act (interpretation of Part I), in subsection (2)—
- (a) after “1954” there shall be inserted “ or paragraph 16(2) of Schedule 10 to the Local Government and Housing Act 1989 ”;
  - (b) for the words “that Act”, in the first place where they occur, there shall be substituted “ the said Act of 1954 or, as the case may be, the said Schedule 10 ”;

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- (c) for the words “that Act”, in the second place where they occur, there shall be substituted “ the said Act of 1954 or, as the case may be, the coming into force of the said Schedule 10 ”; and
    - (e) for the words “that Act”, in the third place where they occur, there shall be substituted “ the said Act of 1954 or, as the case may be, the said Schedule 10 ”.
- 13 (1) In Schedule 3 to that Act (validity of tenants’ notices, effect on the 1954 Act etc. and procedure generally), in paragraph 1, in sub-paragraph (1) after “1954” there shall be inserted “ or paragraph 17 of Schedule 10 to the Local Government and Housing Act 1989 ”.
- (2) In paragraph 2 of that Schedule—
  - (a) in sub-paragraph (1) after “1954” there shall be inserted “ or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ”;
  - (b) in sub-paragraph (2) after “1954” there shall be inserted “ or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ” and after the word “given” there shall be inserted “ or served ”; and
  - (c) in sub-paragraph (3)—
    - (i) after “1954” there shall be inserted “ or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ”;
    - (ii) after the words “shall be” there shall be inserted—
      - “(l) in the case of a notice given under the said Act of 1954”; and
    - (iii) at the end there shall be added—
      - “(ii) in the case of a notice served under the said Schedule 10, the date of termination specified in the previous notice or the expiration of the period of four months beginning on the date of service of the new notice, whichever is the later”.
- (3) In paragraph 3 of that Schedule, after sub-paragraph (2) there shall be inserted—
  - “(3) The reference in sub-paragraph (2) above to section 16(2) of, and paragraph 9 of Schedule 5 to, the Landlord and Tenant Act 1954 includes a reference to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act 1989.”
- (4) In paragraph 4 of that Schedule, after sub-paragraph (5) there shall be inserted—
  - “(6) The references in this paragraph—
    - (a) to section 16 of the Landlord and Tenant Act 1954 and subsection (2) of that section, and
    - (b) paragraph 9 of Schedule 5 to that Act and sub-paragraph (2) of that paragraph,include references to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act 1989.”
- (5) In paragraph 10 of that Schedule—
  - (a) in sub-paragraph (1)—
    - (i) after “1954” there shall be inserted “ or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ”; and

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- (ii) in paragraph (a) for the words “either of those sections” there shall be substituted “any of those provisions”; and
- (b) in sub-paragraph (4) after “1954” there shall be inserted “or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989”.

*The International Organisations Act 1968*

- 14 In Schedule 1 to the <sup>M209</sup>International Organisations Act 1968 (privileges and immunities) after paragraph 9A there shall be inserted the following paragraph—

“9B The like exemption or relief from being subject to a community charge, or being liable to pay anything in respect of a community charge or anything by way of contribution in respect of a collective community charge, as is accorded to or in respect of the head of a diplomatic mission.”

**Commencement Information**

**I12** Sch. 11 para. 14 wholly in force; Sch. 11 para. 14 not in force at Royal Assent see s. 195(2); Sch. 11 para. 14 wholly in force at 25.1.1993 by [S.I. 1993/105](#), [art. 2](#)

**Marginal Citations**

**M209** 1968 c. 48.

PROSPECTIVE

*The Social Work (Scotland) Act 1968*

- <sup>F467</sup>15 .....

**Textual Amendments**

**F467** Sch. 11 para. 15 repealed (S.) (1.4.1997) by [1995 c. 36](#), s. 105(5), [Sch. 5](#); [S.I. 1996/3201](#), [art. 3\(7\)](#)

*The Transport Act 1968*

- 16 In section 12 of the <sup>M210</sup>Transport Act 1968 (borrowing powers of Executive), in subsection (4) for the words from “and to borrow money for that purpose” onwards there shall be substituted “but only if the rate of interest payable by the Executive to the Authority in respect of the loan is not less than that which would be payable by the Authority if they were to borrow the same sum on equivalent terms (disregarding any terms as to interest) from another person”.

**Marginal Citations**

**M210** 1968 c. 73.

*Status:* Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.

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PROSPECTIVE

*The Local Authority Social Services Act 1970*

17 In section 4 of the <sup>M211</sup>Local Authority Social Services Act 1970, after subsection (1) there shall be inserted the following subsection—

“(1A) A local authority may establish sub-committees of their social services committee and may delegate to any such sub-committee any of the functions of the committee.”

**Marginal Citations**

M211 1970 c. 42.

18 In section 5(4) of that Act for the words “section 4(2)” there shall be substituted “subsection (1A) or subsection (2) of section 4”.

*The Town and Country Planning Act 1971*

19<sup>F468</sup>,  
20.

**Textual Amendments**

F468 Sch. 11 paras. 19, 20 repealed by Planning (ConsequentialProvisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras.1, 2, 4, 6

*The Local Government Act 1972*

PROSPECTIVE

21 In section 80 of the <sup>M212</sup>Local Government Act 1972 (disqualifications for election and holding office as members of local authority), in subsection (1) after paragraph (a) there shall be inserted the following paragraph—

“(aa) holds any employment in a company which, in accordance with Part V of the Local Government and Housing Act 1989 other than section 73, is under the control of the local authority; or”.

**Marginal Citations**

M212 1972 c. 70.

22 In section 94(5)(b) of that Act (allowances not to be treated as pecuniary interests), after the word “below” there shall be inserted the words “or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989”.

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- 23 In subsection (6) of section 97 of that Act (exclusion of disability from speaking and voting by reason of small shareholdings), for “£1,000” there shall be substituted “£5,000”.

## PROSPECTIVE

- 24 In section 100G of that Act (duty of principal councils to publish information), for paragraph (b) of subsection (1) there shall be substituted the following paragraph—

- “(b) in respect of every committee or sub-committee of the council—
- (i) the members of the council who are members of the committee or sub-committee or who are entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them;
  - (ii) the name and address of every other person who is a member of the committee or sub-committee or who is entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them otherwise than in the capacity of an officer of the council; and
  - (iii) the functions in relation to the committee or sub-committee of every person falling within sub-paragraph (i) above who is not a member of the committee or sub-committee and of every person falling within sub-paragraph (ii) above.”

## PROSPECTIVE

- 25 In section 102 of that Act (appointment of committees)—

- (a) in paragraph (a) of subsection (1), after “may appoint a committee” there shall be inserted “ or a sub-committee ”;
- (b) in subsection (2), for “the appointing committee” there shall be substituted “ the appointing authority or committee (as the case may be) ”;and
- (c) after subsection (4) there shall be inserted the following subsection—

“(4A) A local authority may appoint one or more sub-committees of a committee appointed by them under subsection (4) above to advise the committee with respect to any matter relating to the discharge of functions with respect to which the committee is appointed to advise.”

- 26 Sections 173 and 173A of that Act (attendance allowance and financial loss allowance) shall be amended as follows—

- (a) for the words “local authority”, wherever they occur, there shall be substituted “ parish or community council ”;
- (b) in subsection (3) of each of those sections, for the word “authority” there shall be substituted “ council ”; and
- (c) for the words “body to which this section applies” in subsection (4) of section 173 there shall be substituted “ parish or community council ”.



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#### Commencement Information

**I13** Sch. 11 para. 26 wholly in force at 1.4.1991; Sch. 11 para. 26 in force for certain purposes at 27.2.1991 and wholly in force at 1.4.1991, see s. 195(2)(3) and [S.I. 1991/344, art. 3, Sch.](#)

- 27 In section 175 of that Act (allowances for conferences and meetings)—
- (a) in subsection (1) (allowances payable), for the words from “allowances in the nature of” onwards there shall be substituted “allowances in the nature of an attendance allowance and an allowance for travelling and subsistence, as they think fit.
- (1A) Payments made under subsection (1) above shall be of such reasonable amounts as the body in question may determine in a particular case or class of case but shall not exceed—
- (a) in the case of payments of an allowance in the nature of an attendance allowance, such amounts as may be specified in or determined under regulations made by the Secretary of State; and
- (b) in the case of payments of an allowance in the nature of an allowance for travel and subsistence in respect of a conference or meeting held in the United Kingdom, such amounts as may be specified under section 174 above for the corresponding allowance under that section;
- and regulations made by the Secretary of State may make it a condition of any payment mentioned in paragraph (a) above that, in the financial year to which the payment would relate, the aggregate amount which the body in question has paid or is already liable to pay in respect of any prescribed allowance or allowances does not exceed such maximum amount as may be specified in or determined under the regulations.”;
- (b) in subsection (3B) (conferences to which section applies in relation to joint boards and committees), for the words “such body as is mentioned in section 177(1)(d) or (e) below” there shall be substituted the words “body which is a joint board, joint authority or other combined body all the members of which are representatives of local authorities”.

#### Commencement Information

**I14** Sch. 11 para. 27 wholly in force at 1. 4. 1991 see s. 195(2)(3) and [S.I. 1991/344, art. 3\(2\)\(a\), Sch.](#)

- 28 (1) Section 177 of that Act shall be amended as follows.
- (2) For subsection (1) (bodies to which sections 173 to 175 apply) there shall be substituted the following subsection—
- “(1) Subject to paragraph 4 of Schedule 2 to the Education Act 1980 (application of certain allowances to appeal committees), sections 174 and 175 above apply—
- (a) to the bodies specified in section 21(1) of the Local Government and Housing Act 1989, except—
- (i) the Common Council;

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- (ii) a body established pursuant to an order under section 67 of the Local Government Act 1985 (successors to residuary bodies); and
  - (iii) without prejudice to section 265 below, the Council of the Isles of Scilly;
  - (b) to any prescribed body on which a body to which those sections apply by virtue of paragraph (a) above is represented; and
  - (c) to any parish or community council.”
- (3) For subsection (2) (meaning of “approved duties”) there shall be substituted the following subsection—
- “(2) In sections 173 to 176 above “approved duty”, in relation to a member of a body, means such duties as may be specified in or determined under regulations made by the Secretary of State.”
- (4) In subsection (4) (members not excluded from discussion of allowances), at the end there shall be inserted the words “ or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989 ”.

**Commencement Information**

**I15** Sch. 11 para. 28 wholly in force at 1. 4. 1991 see s. 195(2)(3) and [S.I. 1991/344, art. 3\(2\)\(a\)](#), [Sch.](#)

- 29 In section 178(2) of that Act (regulations with respect to allowances), for the words “177 or 177A” there shall be substituted “ or 177 ”.

**Commencement Information**

**I16** Sch. 11 para. 29 wholly in force at 1.4.1991, see s. 195(2)(3) and [S.I. 1991/344, art. 3\(2\)\(a\)](#), [Sch.](#)

- 30 In sub-paragraphs (1) and (2) of paragraph 41 of Schedule 12 to that Act (recording the minutes of meetings of local authorities), for the word “following” there shall be substituted “ suitable ”; and after sub-paragraph (3) of that paragraph there shall be inserted the following sub-paragraph—

“(4) For the purposes of sub-paragraphs (1) and (2) above the next suitable meeting of a local authority is their next following meeting or, where standing orders made by the authority in accordance with regulations under section 20 of the Local Government and Housing Act 1989 provide for another meeting of the authority to be regarded as suitable, either the next following meeting or that other meeting.”

*The Land Compensation Act 1973*

- 31 In section 37 of the <sup>M213</sup>Land Compensation Act 1973 (disturbance payments for persons without compensatable interests), in subsection (2), in paragraph (c) for the words from “an owner-occupier’s supplement” onwards there shall be substituted the words “ a payment under section 584A(1) of the Housing Act 1985 (compensation payable in case of closing and demolition orders) ”.

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**Marginal Citations**

M213 1973 c. 26.

- 32 (1) In section 42(6) of that Act, in the definition of “Housing Revenue Account dwelling”, for the words from “Part XIII of the <sup>M214</sup>Housing Act 1985)” to the end there shall be substituted the words “ Part VI of the Local Government and Housing Act 1989) ”.
- (2) This paragraph has effect for years beginning on or after 1st April 1990 and in this sub-paragraph “year” has the same meaning as in Part XIII of the Housing Act 1985 (general financial provisions).

**Marginal Citations**

M214 1985 c.68.

*The Local Government (Scotland) Act 1973*

F469<sup>33</sup> .....

**Textual Amendments**

F469 Sch. 11 para. 33 repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000](#) (asp 7), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

- 34 In section 47 of that Act (allowances for conferences and meetings)—
- (a) in subsection (1) (allowances payable), for the words from “allowances in the nature of” onwards there shall be substituted “allowances in the nature of an attendance allowance and an allowance for travel and subsistence, as they think fit.
- (1A) payments made under subsection (1) above shall be of such reasonable amounts as the body in question may determine in a particular case or class of case but shall not exceed—
- (a) in the case of payments of an allowance in the nature of an attendance allowance, such amounts as may be specified in or determined under regulations made by the Secretary of State; and
- (b) in the case of payments of an allowance in the nature of an allowance for travel and subsistence in respect of a conference or meeting held in the United Kingdom, such amounts as may be specified under section 46 above for the corresponding allowance under that section;
- and regulations made by the Secretary of State may make it a condition of any payment mentioned in paragraph (a) above that, in the financial year to which the payment would relate, the aggregate amount which the body in question has paid or is already liable to pay in respect of any prescribed allowance or allowances does not exceed such maximum amount as may be specified in or determined under the regulations.”;

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- (b) in subsection (3A) (conferences to which section applies in relation to joint boards and committees), for the words “such body as is mentioned in section 49(1)(c) or (d) below” there shall be substituted the words “ body which is a joint board, joint authority or other combined body all the members of which are representatives of local authorities ”.

**Commencement Information**  
**I17** Sch. 11 para. 34 wholly in force at 1.4.1991, see s. 195(2)(3) and [S.I. 1991/344](#), art. 3(2)(a), [Sch.](#)

- 35 (1) Section 49 of that Act shall be amended as follows.
- (2) For subsection (1) (bodies to which sections 46 and 47 apply) there shall be substituted the following subsection—
    - “(1) Sections 46 and 47 above apply—
      - (a) to the bodies specified in section 21(2) of the Local Government and Housing Act 1989; and
      - (b) to any prescribed body on which a body to which those sections apply by virtue of paragraph (a) above is represented.”
  - (3) For subsection (2) (meaning of “approved duties”) there shall be substituted the following subsection—
    - “(2) In sections 46 to 48 above “approved duty”, in relation to a member of a body, means such duties as may be specified in or determined under regulations made by the Secretary of State.”
  - (4) In subsection (4) (members not excluded from discussion of allowances), at the end there shall be inserted the words “ or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989 ”.

PROSPECTIVE

36 In sub-paragraph (1) of paragraph 7 of Schedule 7 to that Act (recording the minutes of meetings of local authorities) for the word “following” there shall be substituted the word “ suitable ”; and after sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraph—

- “(3) For the purposes of sub-paragraph (1) above, the next suitable meeting of a local authority is their next following meeting or, where standing orders made by the authority in accordance with regulations under section 20 of the Local Government and Housing Act 1989 provide for another meeting of the authority to be regarded as suitable, either the next following meeting or that other meeting.”

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### Textual Amendments

**F470** Sch. 11 para. 37 repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(5), [Sch. 18 Pt. 14](#); S.I. 2008/917, art. 2(v)(ii)

- 38 In section 23(12) of that Act (triennial reports to Part III authorities) the words “(through the appropriate representative body designated under section 24 below)” shall be omitted and at the end there shall be inserted the words “ and shall send copies of those recommendations or conclusions to the representative persons and authorities concerned ”.
- 39 (1) In section 31(3)(a) of that Act (further provisions about reports on investigations), for “(1) or (2A)” there shall be substituted “ (2) or (2C) ”.
- (2) This paragraph shall not have effect in relation to a report made before the coming into force of section 26 of this Act.
- 40 In section 32(1) of that Act (publications enjoying absolute privilege for the purposes of the law of defamation), the following paragraph shall be inserted at the end—
- “(e) the publication of any matter by inclusion in a statement published in accordance with section 31(2D), (2E) and (2F) or (2G) above.”
- 41 In Schedule 4 to that Act (further provisions about the Commissions)—
- (a) in paragraph 6, after “Subject to” there shall be inserted “ section 31(2H) above and ”; and
- (b) in paragraph 7, after “Subject to” there shall be inserted “ section 31(2H) above and ”.
- The Housing Act 1974*
- 42 At the end of section 131(4) of the <sup>M215</sup>Housing Act 1974 (commencement orders, savings) there shall be added the words “ and an order under subsection (3) above may be revoked or varied by a further order under that subsection which may itself contain such savings with respect to the effect of the revocation or variation as appear to the Secretary of State to be appropriate ”.

### Marginal Citations

**M215** 1974 c. 44.

### *The Local Government (Scotland) Act 1975*

- [<sup>F471</sup>43 In section 4 of the <sup>M216</sup>Local Government (Scotland) Act 1975 (valuation appeal committees) after subsection (7) there shall be inserted the following subsection—
- “(7A) There shall be paid to members of a valuation appeal committee and to members of a local valuation panel such allowances as may be determined by the Secretary of State.”]

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#### Textual Amendments

**F471** Sch. 11 para. 43 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

#### Marginal Citations

**M216** 1975 c. 30.

<sup>F472</sup>[44(1) In section 29(3)(a) of that Act (further provisions about reports on investigations), for “(1) or (2A)” there shall be substituted “ (2) or (2C) ”.

(2) This paragraph shall not have effect in relation to a report made before the coming into force of section 27 of this Act.]

#### Textual Amendments

**F472** Sch. 11 para. 44 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, **Sch. 6 para. 13(d)**; S.S.I. 2002/467, **art. 2**

<sup>F473</sup>[45 In section 30(1) of that Act (publications enjoying absolute privilege for the purposes of the law of defamation), the following paragraph shall be inserted at the end—

“(e) the publication of any matter by inclusion in a statement published in accordance with section 29(2D), (2E) and (2F) or (2G) of this Act.”]

#### Textual Amendments

**F473** Sch. 11 para. 45 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, **Sch. 6 para. 13(d)**; S.S.I. 2002/467, **art. 2**

<sup>F474</sup>[46 In Schedule 4 to that Act (further provisions about the Commissioner) in paragraph 5, at the beginning, there shall be inserted “ Subject to section 29(2H) of this Act, ”.]

#### Textual Amendments

**F474** Sch. 11 para. 46 repealed (S.) (23.10.2002) by [Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, **Sch. 6 para. 13(d)**; S.S.I. 2002/467, **art. 2**

### *The Local Government (Miscellaneous Provisions) Act 1976*

47 In section 33 of the <sup>M217</sup>Local Government (Miscellaneous Provisions) Act 1976 (restoration or continuation of supply of water, gas or electricity) in subsection (4) for the word “and”, where it first occurs, there shall be substituted “ the sum so recoverable, together with any interest accrued due, shall, until recovered, be a charge on the premises concerned and if ” and at the end of that subsection there shall be inserted the following subsection—

“(4A) A charge under subsection (4) above takes effect from the date when the council makes the payment referred to in that subsection and, for the purposes of enforcing a charge,—

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- (a) the council shall have the same powers and remedies, under the Law of Property Act 1925 and otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and, subject to paragraph (b) below, of appointing a receiver; and
- (b) the power to appoint a receiver shall be exercisable at any time after the expiry of one month from the date when the charge takes effect.”

**Marginal Citations**

M217 1976 c. 57.

- 48 In section 40 of that Act (local authorities not affected by trusts attaching to certain securities issued by them), in subsection (1) after the word “officer” there shall be inserted “ or other person ”.

*The Rent (Agriculture) Act 1976*

- 49 In section 33 of the <sup>M218</sup>Rent (Agriculture) Act 1976 (suspension of condition attached to planning permission), in subsection (2) after the words “let on or subject to” there shall be inserted “ an assured agricultural occupancy, within the meaning of Chapter III of Part I of the Housing Act 1988, or ”.

**Marginal Citations**

M218 1976 c. 80.

- 50 In Schedule 2 to that Act (meaning of “relevant licence” and “relevant tenancy”), in paragraph 2 (meaning of “relevant tenancy”)after “applies” there shall be inserted “ a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applies ”.

*The Rent Act 1977*

<sup>F475</sup>51 .....

**Textual Amendments**

F475 Sch. 11 para. 51 repealed (2.9.1993) by 1993 c. 28, s. 187(2), Sch.22; S.I. 1993/2134, arts. 2,3

- [<sup>F476</sup>52(1) In section 116 of that Act (dwelling subject to statutory tenancy: works to which the tenant is unwilling to consent) in subsection (2) for the words from “paragraph (a)” to “paragraph (b)” there shall be substituted “ any of paragraphs (a) to (c) ”.

- (2) At the end of subsection (3) of that section there shall be added
  - (c) that the works were specified in an application for a renovation grant, a common parts grant, a disabled facilities grant or an HMO grant under Part VIII of the Local Government and Housing Act 1989 and the application has been approved.”



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- (3) At the end of subsection (5) of that section there shall be added the words “ or, as the case may be, with any condition under section 118(2) of the Local Government and Housing Act 1989 ”.]

#### Textual Amendments

**F476** Sch. 11 para. 52 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to **art. 8**)

- 53 (1) In section 137 of that Act (effect on sub-tenancy of determination of superior tenancy), in subsection (5) after the words “a protected tenancy” there shall be inserted “ or an assured tenancy, within the meaning of Part I of the Housing Act 1988 ”.
- (2) In subsection (6) of that section—
- in paragraph (a) after “1954” there shall be inserted “ or, as the case may be, served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ”;
  - in paragraph (b) for the words “that Act” there shall be substituted “ the said Act of 1954 or, as the case may be, paragraph 3 of the said Schedule 10 ”; and
  - in the words following paragraph (b) for the words “Part I of that Act” there shall be substituted “ Part I of the said Act of 1954 or, as the case may be, the said Schedule 10 ”.

#### *The Protection from Eviction Act 1977*

- 54 In section 8 of the <sup>M219</sup>Protection from Eviction Act 1977 (interpretation), in subsection (1) (meaning of “statutorily protected tenancy”) after paragraph (e) there shall be inserted—
- “(e) a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applies”.

#### Marginal Citations

**M219** 1977 c. 43.

PROSPECTIVE

#### *The Education (Scotland) Act 1980*

- 55 In Schedule A1 to the <sup>M220</sup>Education (Scotland) Act 1980, for paragraph 9 there shall be substituted the following paragraph—
- “9 There shall be paid to members of an appeal committee constituted in accordance with this Schedule such allowances as may be determined by the Secretary of State.”



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### Marginal Citations

M220 1980 c. 44.

PROSPECTIVE

### *The Local Government, Planning and Land Act 1980*

56 In section 98 of the <sup>M221</sup>Local Government, Planning and Land Act 1980 (disposal of land at direction of Secretary of State), in subsection (8), at the end of paragraph (b) the word “or” shall be omitted and at the end of paragraph (c) there shall be added—

“or

- (d) in any case where the body to whom this Part of this Act applies is one of the bodies specified in subsection (8A) below, the other body is a company under the control or subject to the influence of that body within the meaning of Part V of the Local Government and Housing Act 1989 (companies in which local authorities have interests).

(8A) The bodies referred to in subsection (8)(d) above are—

- (a) a county council;
- [<sup>F477</sup>(aa) a county borough council;]
- (b) a district council;
- (c) a London borough council;
- (d) the Common Council of the City of London; <sup>F478</sup>...
- (e) a joint authority established by Part IV of the Local Government Act 1985;
- [<sup>F479</sup>[
- <sup>F480</sup>(eza) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- (ezb) a combined authority established under section 103 of that Act;]
- and
- (ea) <sup>F481</sup>.....
- [<sup>F482</sup>(f) the London Fire Commissioner.”]]

### Textual Amendments

**F477** Words in Sch. 11 para. 56 inserted (3.4.1995) by [Local Government \(Wales\) Act 1994 \(c. 19\)](#), s. 66(6), [Sch. 16 para. 57\(4\)](#); S.I. 1995/852, art. 9(1), [Sch. 5](#) (subject to art. 9(2)-(5))

**F478** Word in Sch. 11 para. 56 repealed (3.7.2000) by the [Greater London Authority Act 1999 \(c. 29\)](#), s. 423, [Sch. 34 Pt. VIII](#); S.I. 2000/1094, art. 4(i)

**F479** Words in Sch. 11 para. 56 inserted (3.7.2000) by the [Greater London Authority Act 1999 \(c. 29\)](#), s. 328, [Sch. 29 para. 30](#); S.I. 2000/1094, art. 4(h)

**F480** Words in Sch. 11 para. 56 inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 119, [Sch. 6 para. 50](#); S.I. 2009/3318, art. 2(c)

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**F481** Words in Sch. 11 para. 56 repealed (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 59, [Sch. 13 para. 6\(14\)\(b\)](#); S.I. 2015/994, [art. 6\(g\)](#)

**F482** Words in Sch. 11 para. 56 substituted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 2 para. 58](#)

#### Marginal Citations

**M221** 1980 c. 65.

57 In section 100 of that Act (interpretation and extent of Part X) for subsection (1) there shall be substituted the following subsections—

“(1) Except where the context otherwise requires, in this Part of this Act, “subsidiary”, in relation to a body to whom this Part of this Act applies, means—

- (a) if that body is a county council, [<sup>F483</sup>county borough council] district council, London borough council, the Common Council of the City of London [<sup>F484</sup>, the London Fire Commissioner][<sup>F485</sup>, a joint authority established by Part 4 of the Local Government Act 1985 [<sup>F486</sup>, an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,][<sup>F487</sup> or a combined authority established under section 103 of that Act]], a company under the control, or subject to the influence, of that body within the meaning of Part V of the Local Government and Housing Act 1989 (companies in which local authorities have interests); and
- (b) in the case of any other body, a wholly-owned subsidiary of that body.

(1A) In this Part of this Act, “wholly-owned subsidiary” has the meaning assigned to it by [<sup>F488</sup>section 1159 of the Companies Act 2006].”

#### Textual Amendments

**F483** Words in Sch. 11 para. 57 inserted (29.4.1996) by [S.I. 1996/1008](#), [art. 2](#), [Sch. Pt. I para. 2](#)

**F484** Words in Sch. 11 para. 57 substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 2 para. 60](#); S.I. 2018/227, [reg. 4\(c\)](#)

**F485** Words in Sch. 11 para. 57 substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 13 para. 36\(5\)](#); S.I. 2008/917, [art. 2\(1\)\(p\)](#)

**F486** Words in Sch. 11 para. 57 inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), s. 148(6), [Sch. 6 para. 52](#); S.I. 2009/3318, [art. 2\(c\)](#)

**F487** Words in Sch. 11 para. 57 substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), [Sch. 13 para. 6\(14\)\(d\)](#); S.I. 2015/994, [art. 6\(g\)](#)

**F488** Words in Sch. 11 para. 57 substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), [art. 1\(2\)](#), [Sch. 1 para. 46\(3\)\(b\)](#) (with [art. 10](#))

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F489 ...

**Textual Amendments**

**F489** Sch. 11 para. 58 and cross-heading repealed (1.4.2009) by [Housing and Regeneration Act 2008 \(c. 17\)](#), s. 325(1), [Sch. 16](#); [S.I. 2009/803](#), art. 10

F489 58 .....

*The Stock Transfer Act 1982*

F490 59 .....

**Textual Amendments**

**F490** Sch. 11 para. 59 repealed (27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 8 Pt. 1](#); [S.I. 2003/2938](#), art. 7(e)(iii) (with art. 8, Sch.); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I

PROSPECTIVE

*The County Courts Act 1984*

60 In section 77 of the <sup>M222</sup>County Courts Act 1984 (appeals: general provisions), in subsection (6) after paragraph (ee) there shall be inserted the following paragraph—  
“(ef) paragraph 13(4) of Schedule 10 to the Local Government and Housing Act 1989; or”.

**Marginal Citations**

**M222** 1984 c. 28.

*Rent (Scotland) Act 1984*

61 In section 58(7) of the <sup>M223</sup>Rent (Scotland) Act 1984 (power to vary sum of £104 specified in phasing formula under section 58(2)) for the words “the sum specified in” there shall be substituted the words “ or repealing any of the provisions of ”.

**Marginal Citations**

**M223** 1984 c. 58.

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### *The Housing Act 1985*

- 62 In section 8 of the <sup>M224</sup>Housing Act 1985 (periodical review of housing needs), in subsection (2) for the words from “inspections” onwards there shall be substituted “ the consideration of the housing conditions in their district under section 605 ”.

#### **Marginal Citations**

**M224** 1985 c. 68.

- [<sup>F491</sup>63 In each of sections 47(4) and 48(3A) of that Act (limitation of service charges etc.), after the words “Part XV” there shall be inserted “ of this Act or Part VIII of the Local Government and Housing Act 1989 ”.]

#### **Textual Amendments**

**F491** Sch. 11 para. 63 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to **art. 8**)

- 64 In section 54 of that Act (powers of entry), at the end of subsection (2) there shall be added the words “ and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ”.
- 65 (1) In section 55 of that Act (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “ intentionally ”.
- (2) In subsection (2) of that section for the words “level 2” there shall be substituted “ level 3 ”.

- [<sup>F492</sup>66 In section 100 of that Act (power to reimburse cost of secure tenant’s improvements), after subsection (2) there shall be inserted the following subsection—
- “(2A) In subsection (2)—
- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and
- (b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII.”]

#### **Textual Amendments**

**F492** Sch. 11 para. 66 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to **art. 8**)

- [<sup>F493</sup>67 In section 101 of that Act (rent not to be increased on account of tenant’s improvements), after subsection (1) there shall be inserted the following subsection—
- “(1A) In subsection (1)—
- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO

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grant under Part VIII of the Local Government and Housing Act 1989; and

- (b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII.”]

#### Textual Amendments

**F493** Sch. 11 para. 67 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to **art. 8**)

[<sup>F494</sup>68 In section 244 of that Act (environmental works), in subsection (3) after the word “works” there shall be inserted “(a)”, after the word “grant”, in the last place where it occurs, there shall be inserted “under Part XV” and at the end there shall be added

- (e) which are included in the external works specified in a group repair scheme, within the meaning of Part VIII of the Local Government and Housing Act 1989, in which the person concerned is eligible to participate.

(3A) In subsection (3)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and  
(b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII.”]

#### Textual Amendments

**F494** Sch. 11 para. 68 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to **art. 8**)

[<sup>F495</sup>69 In section 255 of that Act (general powers of local housing authority in general improvement areas) after subsection (2) there shall be inserted the following subsection—

“(3) In subsection (2)(b)—

- (a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and  
(b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII.”]

#### Textual Amendments

**F495** Sch. 11 para. 69 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to **art. 8**)

70 In section 289 of that Act (declaration of clearance area), subsection (6)shall cease to have effect.

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- 71 In section 327 of that Act (penalty for occupier causing or permitting overcrowding), in subsection (3)—
  - (a) for the words “level 1” there shall be substituted “ level 2 ”;and
  - (b) for “£2” there shall be substituted “ one-tenth of the amount corresponding to that level ”.
- 72 In section 331 of that Act (penalty for landlord causing or permitting overcrowding), in subsection (3)—
  - (a) for the words “level 1” there shall be substituted “ level 2 ”,and
  - (b) for “£2” there shall be substituted “ one-tenth of the amount corresponding to that level ”.
- 73 In section 340 of that Act (powers of entry), at the end of subsection (2) there shall be added the words “ and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ”.
- 74 (1) In section 341 of that Act (penalty for obstruction), in subsection (1) after the word “offence” there shall be inserted “ intentionally ”.
- (2) In subsection (2) of that section for the words “level 2” there shall be substituted “ level 3 ”.

F49675 . . . . .

**Textual Amendments**  
**F496** Sch. 11 para. 75 repealed (3.3.1997) by 1996 c. 52, s. 227, Sch. 19 Pt. II; S.I. 1997/596, art. 2

F49776 . . . . .

**Textual Amendments**  
**F497** Sch. 11 para. 76 repealed (3.3.1997) by 1996 c. 52, s. 227, Sch. 19 Pt. II; S.I. 1997/596, art. 2

- 77 (1) In subsection (1) of section 421 of that Act (housing subsidy), for the words “housing authorities” there shall be substituted the words “ new town corporations and the Development Board for Rural Wales ”.
- (2) In subsection (2) of that section, for paragraphs (a) and (b) there shall be substituted the words “ to the body’s housing account ”.
- (3) This paragraph and paragraphs 78 to 84 below have effect for years beginning on or after 1st April 1990 and in this sub-paragraph “year” has the same meaning as in Part XIII of that Act (general financial provisions).
- 78 (1) In subsection (1) of section 422 of that Act (calculation of housing subsidy for local housing authorities), for the words “local housing authority” there shall be substituted the words “ new town corporation ”and for the word “authority’s” there shall be substituted the word “ corporation’s ”.
- (2) In subsection (2) of that section, for the word “authority” there shall be substituted the word “ corporation ”.

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- 79 (1) In subsection (1) of section 423 of that Act (the base amount), for the words “local housing authority’s” there shall be substituted the words “ new town corporation’s ” and for the word “authority” there shall be substituted the word “ corporation ”.
- (2) In subsection (2) of that section, the words “any description of authority or” shall cease to have effect.
- 80 (1) In subsection (1) of section 424 of that Act (the housing costs differential), for the words “local housing authority’s” there shall be substituted the words “ new town corporation’s ”.
- (2) In subsection (2) of that section, for the words “local housing authority’s” there shall be substituted the words “ new town corporation’s ”, for the word “authority”, in each place where it occurs, there shall be substituted the word “ corporation ” and for the words “the authority’s Housing Revenue Account” there shall be substituted the words “ the corporation’s housing account ”.
- (3) For subsection (3) of that section there shall be substituted the following subsection—
- “(3) A determination may be made for all new town corporations or different determinations may be made for individual corporations; and a determination may be varied or revoked in relation to all or any of the corporations for which it was made.”
- (4) In subsection (4) of that section, for the words “local housing authorities”, in both places where they occur, there shall be substituted the words “ new town corporations ”.
- 81 (1) In subsection (1) of section 425 of that Act (the local contribution differential), for the words “local housing authority’s” there shall be substituted the words “ new town corporation’s ”.
- (2) In subsection (2) of that section, for the words “An authority’s” there shall be substituted the words “ A corporation’s ”, for the word “authority”, in both places where it occurs, there shall be substituted the word “ corporation ”, for the words “Housing Revenue Account” there shall be substituted the words “ housing account ” and for the words “general rate fund” there shall be substituted the words “ general revenue account ”.
- (3) For subsection (4) of that section there shall be substituted the following subsection—
- “(4) A determination may be made for all new town corporations or different determinations may be made for different corporations or groups of corporations.”
- (4) In subsection (5) of that section, for the words “local housing authorities”, in both places where they occur, there shall be substituted the words “ new town corporations ”.
- (5) In subsection (6) of that section, for the word “authorities” there shall be substituted the words “ corporations ”.



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### Textual Amendments

**F498** Sch. 11 para. 82 repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV**; S.I. 1998/2244, **art. 4**

- 83 In section 427(1) of that Act (recoupment of subsidy in certain cases), for the words “local housing authority or other body” there shall be substituted the words “ new town corporation or the Development Board for Rural Wales ” and for the words “the authority or other body” there shall be substituted the words “ that body ”.
- 84 In section 427A of that Act (entitlement to subsidy in case of land subject to a management agreement), for the words “local housing authority or other body” there shall be substituted the words “ new town corporation or the Development Board for Rural Wales ” and for the words “that authority or body’s” there shall be substituted the words “ that body’s ”.
- 85 In section 582 of that Act (restriction on recovery of possession after making of compulsory purchase order), in subsection (1)(b) for the words “section 243(2) (land in housing action area)” there shall be substituted “ section 93(2) of the Local Government and Housing Act 1989 (land in renewal area) ”.
- 86 In section 584 of that Act (power to enter and determine short tenancies of land acquired or appropriated), in subsection (1), the word “or”, in the last place where it occurs, shall be omitted and after the words “the provisions of Part IX relating to clearance areas,” there shall be inserted “or  
Part VII of the Local Government and Housing Act 1989 (renewal areas)”.
- 87 In Schedule 14 to that Act (the keeping of the Housing Revenue Account), in Part V (other supplementary provisions), in paragraph 8 (contributions in respect of land in general improvement area), after the words “section 259” there shall be inserted “ of this Act ”, after the words “general improvement area)” there shall be inserted “ or section 96 of the Local Government and Housing Act 1989 (contributions by Secretary of State towards expenditure on renewal area) ” and after the words “Part II” there shall be inserted “ of this Act ”.
- 88 In Schedule 16 to that Act (local authority mortgage interest rates), for paragraph 4 there shall be substituted the following paragraph—
- “4 (1) The rate declared under paragraph 3(a) or (b) shall be a rate calculated in such manner as the Secretary of State may determine.
- (2) A determination under this paragraph—
- (a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local authorities or for different descriptions of local authorities; and
- (b) may be varied or withdrawn by a subsequent determination.
- (3) As soon as practicable after making a determination under this paragraph, the Secretary of State shall send a copy of the determination to the local authority or authorities to which it relates.”

### *The Landlord and Tenant Act 1985*

- 89 In section 14 of the <sup>M225</sup>Landlord and Tenant Act 1985 (leases to which section 11—repairing obligations in short leases—applies: exceptions), in subsection (4) after



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the words “Rent Act 1977” there shall be inserted “ or paragraph 8 of Schedule 1 to the Housing Act 1988 ”.

#### Marginal Citations

M225 1985 c. 70.

90 In section 20A of that Act (service charges) after the words “HousingAct 1985” there shall be inserted “ or Part VIII of the Local Government and Housing Act 1989 ” and at the end there shall be added the following subsection—

“(2) In any case where—

- (a) relevant costs are incurred or to be incurred on the carrying out of works which are included in the external works specified in a group repair scheme, within the meaning of Part VIII of the Local Government and Housing Act 1989, and
- (b) the landlord participated or is participating in that scheme as an assisted participant,

the amount which, in relation to the landlord, is the outstanding balance determined in accordance with subsections (3) and (4) of section 130 of that Act shall be deducted from the costs, and the amount of the service charge payable shall be reduced accordingly.”

91 (1) In section 21 of that Act (summary of relevant costs for the purposes of service charges), in subsection (5) after the words “Housing Act 1985” there shall be inserted “ or Part VIII of the Local Government and Housing Act 1989 ”.

(2) After subsection (5A) of that section there shall be inserted the following subsection—

“(5B) The summary shall state whether any of the costs relate to works which are included in the external works specified in a group repair scheme, within the meaning of Part VIII of the Local Government and Housing Act 1989, in which the landlord participated or is participating as an assisted participant.”

PROSPECTIVE

#### *The Education Act 1986*

92 [F499] In section 4(2)(a) of the M226 Education Act 1986 (definition of “the pooling provisions” for the purposes of sections 2 and 3 of that Act) after “that Schedule” there shall be inserted “ and section 147 of the Local Government and Housing Act 1989 ”.]

#### Textual Amendments

F499 Sch. 11 para. 92 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), [Sch. 1 Pt. 10](#) Group 2

#### Marginal Citations

M226 1986 c. 40.

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*The Housing (Scotland) Act 1987*

93 In section 61(3) of the <sup>M227</sup>Housing (Scotland) Act 1987 (application of right to buy to tenants under secure tenancies granted after acquisition by landlord of defective dwelling) for “282(3)” there shall be substituted “ 282(2) or (3) ”.

**Marginal Citations**  
M227 1987 c. 26.

94 In section 62(1) of that Act (price at which secure tenant entitled to buy house to be market value less discount) there shall be inserted after “fixed” the words “ as at the date of service of the application to purchase ”.

F50095 .....

**Textual Amendments**  
F500 Sch. 11 para. 95 repealed (S.) (1.4.2010) by Housing (Scotland) Act 2006 (asp 1), s. 195(3), sch. 7 (with s. 193); S.S.I. 2009/122, art. 3

*The Local Government Act 1988*

96 In section 25 of the <sup>M228</sup>Local Government Act 1988 (consent required for provision of financial assistance etc.) in subsection (1)(b) after the word “power” there shall be inserted “ (whether conferred before or after the passing of this Act) ”.

**Marginal Citations**  
M228 1988 c. 9.

PROSPECTIVE

F50197 .....

**Textual Amendments**  
F501 Sch. 11 para. 97 repealed (18.11.2003 for E. and 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 8 Pt. 1; S.I. 2003/2938, art. 3(i)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

PROSPECTIVE

*The Education Reform Act 1988*

F50298 .....

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### Textual Amendments

**F502** Sch. 11 para. 98 repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), [Sch. 14](#) (with s. 118(1)(2)(4)); S.I. 1992/2454, [art. 3\(1\)](#)

### *The Housing (Scotland) Act 1988*

- 99 In section 16 of the <sup>M229</sup>Housing (Scotland) Act 1988—
- (a) in paragraph (b) (ii) of subsection (1) (tenant under statutory assured tenancy not bound by certain original provisions for rent increases)—
    - (i) after the words “specified in” there shall be inserted the words “ or fixed by reference to factors specified in ”; and
    - (ii) after the words “there specified” there shall be inserted the words “ , or fixed by reference to factors there specified, ”; and
  - (b) after that subsection there shall be inserted the following subsection—
    - “(1A) The factors referred to in subsection (1) (b) (ii) above must be—
      - (a) factors which, once specified, are not wholly within the control of the landlord; and
      - (b) such as will enable the tenant at all material times to ascertain without undue difficulty any amount or percentage falling to be fixed by reference to them.”

### Marginal Citations

[M229 1988 c. 43.](#)

- 100 In section 24 of that Act—
- (a) in subsection (1) (procedure for securing rent increase in assured tenancies)—
    - (i) for the word “an” there shall be substituted the words “ a statutory ”; and
    - (ii) in each of paragraphs (a) and (b), after the word “was” there shall be inserted the words “ at the time of service of the notice ”.
  - (b) in subsection (5) (saving, from rent increase procedure for assured tenancies, of operation of certain tenancy provisions for such increases)—
    - (i) for the words from “affects” to “tenancy”, where first occurring, there shall be substituted the following—
      - “(a) extends to a statutory assured tenancy of which there is a term”.
      - (ii) after the words “specified in” there shall be inserted the words “ ,or fixed by reference to factors specified in, ”;
      - (iii) after the words “there specified” there shall be inserted the words “ , or fixed by reference to factors there specified, ”; and
      - (iv) there shall be inserted at the end the words “or
    - (b) affects the operation of any term of a contractual tenancy which makes provision for an increase in rent (including provision whereby the rent for a

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particular period will or may be greater than that for an earlier period”); and

(c) after that subsection there shall be inserted the following subsection—

“(6) The factors referred to in subsection (5) above must be—

- (a) factors which, once specified, are not wholly within the control of the landlord; and
- (b) such as will enable the tenant at all material times to ascertain without undue difficulty any amount or percentage falling to be fixed by reference to them.”

*The Housing Act 1988*

101 In section 7 of the <sup>M230</sup>Housing Act 1988 (orders for possession), in subsection (3) for the words “subsection (6)” there shall be substituted “ subsections (5A) and (6) ”.

(2) In subsection (4) of that section for the words “subsection (6)” there shall be substituted “ subsections (5A) and (6) ”.

(3) After subsection (5) of that section there shall be inserted the following subsection—

“(5A) The court shall not make an order for possession of a dwelling-house let on an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989 on any of the following grounds, that is to say,—

- (a) Grounds 1, 2 and 5 in Part I of Schedule 2 to this Act;
- (b) Ground 16 in Part II of that Schedule; and
- (c) if the assured periodic tenancy arose on the termination of a former 1954 Act tenancy, within the meaning of the said Schedule 10, Ground 6 in Part I of Schedule 2 to this Act.”

**Marginal Citations**

M230 1988 c. 50.

102 In section 15 of that Act (limited prohibition on assignment etc. without consent), in subsection (3) after the words “which is not a statutory periodic tenancy” there shall be inserted “ or an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989 ”.

103 In section 21 of that Act (recovery of possession on expiry or termination of assured shorthold tenancy), in subsection (1)(a) for the words “astatutory periodic tenancy” there shall be substituted “ an assured shorthold periodic tenancy (whether statutory or not) ”.

104 In section 34 of that Act (new protected tenancies etc. restricted to special cases), in subsection (1) for paragraph (d) there shall be substituted the following paragraph—  
“(e) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by a new town corporation, within the meaning of section 80 of the Housing Act 1985, and, before the date which has effect by virtue of paragraph (a) or paragraph (b) of subsection (4) of section 38 below, ceased to be so held by virtue of

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a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981”.

105 (1) In section 35 of that Act (removal of special regimes for tenancies of housing associations etc.) in subsection (2) for paragraph (d) there shall be substituted the following paragraph—

“(e) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by a new town corporation, within the meaning of section 80 of the Housing Act 1985, and, before the date which has effect by virtue of paragraph (a) or paragraph (b) of subsection (4) of section 38 below, ceased to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981”

(2) At the beginning of subsection (4) of that section there shall be inserted the words “ Subject to section 38 (4A) below ”.

106 (1) In section 38 of that Act (transfer of existing tenancies from public to private sector) at the beginning of subsection (3) there shall be inserted “ Subject to subsections (4) and (4A) below ”.

(2) In subsection (4) of that section (special provisions for tenancies held of a new town corporation) after the words “Housing Act 1985” there shall be inserted “ and which subsequently ceases to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981 ”.

(3) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) Where, by virtue of a disposal falling within subsection (4) above and made before the date which has effect by virtue of paragraph (a) or paragraph (b) of that subsection, the interest of the landlord under a tenancy passes to a registered housing association, then, notwithstanding anything in subsection (3) above, so long as the tenancy continues to be held by a body which would have been specified in subsection (1) of section 80 of the Housing Act 1985 if the repeal of provisions of that section effected by this Act had not been made, the tenancy shall continue to be a secure tenancy and to be capable of being a housing association tenancy.”

F503 107 .....

**Textual Amendments**

**F503** Sch. 11 para. 107 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to **Sch.**)

108 In Schedule 2 to that Act (grounds for possession of dwelling-houses let on assured tenancies), in Part I (grounds on which court must order possession), in Ground 6 in the paragraph following paragraph (c)—

- (a) after the words “joint tenants”, in the second place where they occur, there shall be inserted “ of the dwelling-house concerned ”;
- (b) for the words “of the dwelling-house concerned” there shall be substituted “ or, as the case may be, under a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applied ”; and

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- (c) after the words “earlier assured tenancy”, in the second place where they occur, there shall be inserted “ or, as the case may be, to the grant of the tenancy to which the said Schedule 10 applied ”.

F504 109 .....

**Textual Amendments**  
**F504** Sch. 11 para. 109 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to **Sch.**)

- 110 In Schedule 5 to that Act (Housing for Wales), in paragraph 5 (remuneration and allowances), in sub-paragraph (1)—
  - (a) for the words “Secretary of State” there shall be substituted “ Corporation ”; and
  - (b) for the word “he” there shall be substituted “ Secretary of State ”.
- 111 In Schedule 6 to that Act, in paragraph 9 (amendments of section 15 of <sup>M231</sup>Housing Associations Act 1985), in sub-paragraph (2) for “(3)” there shall be substituted “ (2A) ”.

**Marginal Citations**  
**M231** 1985 c. 69.

- 112 In Schedule 18 to that Act (enactments repealed) at the end of paragraph 4 at the end of that Schedule (scope of repeals of section 80 of the <sup>M232</sup>Housing Act 1985) there shall be added “and
  - (c) do not have effect in relation to a tenancy while it is a housing association tenancy.”

**Marginal Citations**  
**M232** 1985c. 68.

*The Social Security Act 1989*

F505 113 .....

**Textual Amendments**  
**F505** Sch. 11 para. 113 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), s. 3, **Sch.1**

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## SCHEDULE 12

Section 194.

### ENACTMENTS REPEALED

#### PART I

##### LOCAL AUTHORITY FINANCE

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38 and 39 Vict. c. 83.	The Local Loans Act 1875.	The whole Act.
45 and 46 Vict. c. 50.	The Municipal Corporations Act 1882.	In Part I of Schedule 9, the entry relating to the Local Loans Act 1875.
48 and 49 Vict. c. 30.	The Local Loans Sinking Funds Act 1885.	The whole Act.
51 & 52 Vict. c. 25.	The Railway and Canal Traffic Act 1888.	In section 54, subsections (3) and (4). In section 55, the words from “The term “conservancy authority”” onwards.
55 & 56 Vict. c. 43.	The Military Lands Act 1892.	Section 8(3).
8 Edw. 7 c. 36.	The Small Holdings and Allotments Act 1908.	Section 52(3).
9 and 10 Geo. 6 c. 58.	The Borrowing (Control and Guarantees) Act 1946.	In section 1, in the proviso to subsection (1) the words “(other than a local authority)”.
11 & 12 Geo. 6 c. 26.	The Local Government Act 1948.	In section 125(2)(d), the words from “section thirty” to “Act) or”.
7 and 8 Eliz. 2 c. 53.	The Town and Country Planning Act 1959.	Section 27.
1964 c. 9.	The Public Works Loans Act 1964.	In section 6, in subsection (1) the words from “section 216(1)” to “London Government Act 1939 and”.
1964 c. 48.	The Police Act 1964.	In section 8, subsection (2).
1968 c. 73.	The Transport Act 1968.	In section 12, subsection (6) and in subsection (7), in paragraph (b), the words “section 203 of the Local Government Act 1933 and”.
1969 c. 19.	The Decimal Currency Act 1969.	In Schedule 2, paragraph 14.
1971 c. 78.	The Town and Country Planning Act 1971.	In section 123, subsection (8).

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1972 c. 70.	The Local Government Act 1972.	In section 68, subsections (6) and (7).Section 123(6).Section 153. Insection 172, the words from the beginning to “their funds, and ”. In Schedule 13, paragraphs 1 to 22 and paragraph 26.
1974 c. 7.	The Local Government Act 1974.	In Schedule 7, paragraph 12.
1976 c. 57.	The Local Government (Miscellaneous Provisions) Act 1976.	Section 28.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Sections 71 to 80B. Sections 82 to 85. Schedule 12.
1982 c. 32.	The Local Government Finance Act 1982.	In section 5, subsection (1).In Schedule 5, paragraph 8(3).
1982 c. 41.	The Stock Transfer Act 1982.	In section 5, subsection (1).
1985 c. 51.	The Local Government Act 1985.	Sections 70 and 71. In section 74(5), the words from “(including” to “1875)”. Sections 75 and 76. In section 77, in subsection (1), paragraph (a) and in subsection (3), paragraph (c) and the word “and” immediately preceding it. In Schedule 14, paragraph 17 and in paragraph 59(1), paragraphs (c) and (d).
1985 c. 67.	The Transport Act 1985.	In Schedule 3, paragraph 29.
1985 c. 68.	The Housing Act 1985.	In section 34, subsection (4B). In section 43, subsection (4B). Section 430.
1986 c. 10.	The Local Government Act 1986.	Section 8.
1986 c. 31.	The Airports Act 1986.	In section 21, subsections (1) to (3) and in subsection (4) the words from the beginning to “1980; and”. In section 22, subsections (1) to (4). Section 71.
1987 c. 6.	The Local Government Finance Act 1987.	In Schedule 1, paragraphs 7 and 8.



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1987 c. 44.	The Local Government Act 1987.	Section 1. The Schedule.
1988 c. 4.	The Norfolk and Suffolk Broads Act 1988.	In section 14(14), the words from “section 34” to “1875 and”. In Schedule 6, paragraph 21.
1988 c. 40.	The Education Reform Act 1988.	In section 177, subsection (4). In section 190, in subsection (5), paragraph (b) and the word “and” immediately preceding it. In section 201, in subsection (5), paragraph (b) and the word “and” immediately preceding it. In Schedule 12, paragraphs 47 and 48.
1988 c. 41.	The Local Government Finance Act 1988.	Sections 130 to 132.
1988 c. 50.	The Housing Act 1988.	Section 129(5)(a). In section 132, subsections (4) and (5). Section 136.

## PART II

### OTHER REPEALS

#### Commencement Information

**I18** Sch. 12 Pt. II partly in force at 1. 4. 1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(b), Sch.; Sch. 12 Pt. II in force for certain further purposes at 22.7.1996 by 1996/1857, art. 2

1897 c. cxxxiii.	The City of London Sewers Act 1897.	Section 17.
15 & 16 Geo 6 & 1 Eliz. 2. c. 54.	The Town Development Act 1952.	The whole Act.
4 and 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	Section 22(4).
9 & 10 Eliz. 2. c. 33.	The Land Compensation Act 1961.	Section 10. Schedule 2.
10 & 11 Eliz. 2. c. 9.	The Local Government (Financial Provisions etc.) (Scotland) Act 1962.	In section 4, subsections (3) and (4). The first Schedule.

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10 & 11 Eliz. 2. c. 38.	The Town and Country Planning Act 1962.	In Schedule 12, the entry relating to the Town Development Act 1952.
1968 c. 72.	The Town and Country Planning Act 1968.	Section 99.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 23, the entry relating to the Town Development Act 1952.
1972 c. 70.	The Local Government Act 1972.	In section 80, in subsection (1)(a), the words “joint board, joint authority or”. In section 101, in subsection (6), the words “or borrowing money”. In section 102(3), the words from “but at least” onwards. Section 110. In section 137, subsections (2A), (2B), (2C) (a) and (8). In section 177, subsection (2A) and in subsection (3), the words “(but not for the purposes of subsection (2A) above)”, and subsection (5). Section 177A. In section 178, in subsection (1), the words “and 177A”. Section 185. Section 265A(1)(g). Schedule 18.
1973 c. 26.	The Land Compensation Act 1973.	In section 29, in subsection (1), in paragraph (b), the words from “or the service” onwards and in subsection (7), in paragraph (c), the words “211, 264 or” and the words from “(undertaking” onwards. In section 37, in subsection (1), in paragraph (b), the words from “or the service” onwards and in subsection (2), paragraph (b)(ii). Section 39(1)(d). In section 73, subsections (4) and (5).
1973 c. 37.	The Water Act 1973.	In Schedule 8, paragraphs 64 and 65.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In section 31(1)(a)(ii), the words “or joint board”. Sections 45 and 45A.

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		Section 49(1A). Section 49A. In section 57(3), the words from “but at least” onwards. Section 110A(2). In section 111(1), paragraphs (a), (b) and (d). In section 161(6), the words from “but at least” onwards. In Schedule 10, paragraph 11. In Schedule 20, paragraph 10.
1974 c. 7.	The Local Government Act 1974.	In section 23, in subsections (4), (5) and (6) the word “Local” and in subsection (12), the words “(through the appropriate representative body designated under section 24 below)”. Section 24. In section 25(4)(b), the words from “or section 110” to “authorities”. In section 34(1), the definition of “representative body”.
1974 c. 44.	The Housing Act 1974.	In Schedule 13, paragraphs 38(1)(a) and 39(1)(a) and in paragraph 40(1) the words from “and at the end of that paragraph” onwards.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 6, in Part II, paragraph 46.
1975 c. 76.	The Local Land Charges Act 1975.	In section 9, in subsection (2), the words from the beginning to “in writing, and”.
1976 c. 74.	The Race Relations Act 1976.	In section 47, in subsection (1)(c), the words following “field of housing”, and in subsections (1)(d) and (3A), the word “rented”.
1979 c. 55.	The Justices of the Peace Act 1979.	In section 59, in subsection (1)(a) the words “or this Part”.
1980 c. 20.	The Education Act 1980.	In Schedule 2, in paragraph 4, the words “173(4) and”.
1980 c. 45.	The Water (Scotland) Act 1980.	Section 40(7).
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 26(1) to (3).

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1981 c. 64.	The New Towns Act 1981.	Part III. In section 72(1), paragraph (b) and the word “or” immediately preceding it. In Schedule 9, in subparagraph (2) of paragraph 3, the words from “but” onwards.
1981 c. 67.	The Acquisition of Land Act 1981.	In the Table in paragraph 1 of Schedule 4, the entry relating to the Town Development Act 1952.
1983 c. 52.	The Local Authorities (Expenditure Powers) Act 1983.	The whole Act.
1984 c. 11.	The Education (Grants and Awards) Act 1984.	In section 1, in subsection (6) the words “or section 2 below” and in subsection (7), the words “or section 2 below” and “in those sections”. Section 2.
1985 c. 5.	The New Towns and Urban Development Corporations Act 1985.	Sections 3 and 4. In Schedule 2, paragraph 2. In Schedule 3, paragraph 7.
1985 c. 51.	The Local Government Act 1985.	Section 33. In Schedule 8, paragraphs 8 and 9(2). In Schedule 14, paragraphs 19 and 20.
1985 c. 68.	The Housing Act 1985.	Section 107. In section 191(3) the words “(repair notice in respect of unfit dwelling-house)”. Section 192. In section 197, in subsection (1), paragraph (c) and the word “or” immediately preceding it. Sections 205 and 206. In section 208, the entries beginning “house” and “reasonable expense”. Sections 209 to 238. Section 266. In section 268, in subsection (1), paragraph (a) and, in paragraph (b), the word “other”. In section 269, in subsection (3), paragraph (b) and the word “and” immediately preceding it; and subsections (4) and (5). In section 279(2) the words “section 266(parts of

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buildings and underground rooms)”. Sections 280 to 282. Section 289(6). In section 291(3) the words “Schedule 11 (rehabilitation orders)”. Section 299. In section 300, subsection (4). Sections 312 to 314. In section 315(1)(a) the words “or person having control”. Section 321. In section 322 the definition of “person having control”. In section 323, the entries beginning “the full standard”, “general improvement area”, “house”, “land liable to be cleared”, “person having control”, “slum clearance functions”, “slum clearance subsidy” and “year”. In section 346, in subsection (1) paragraph (b) and the word “and” immediately preceding it and in subsections (2) and (3) the words “or building” in each place where they occur. In section 349, in subsection (2)(b) the words “and buildings”. In section 350, in subsection (1) the words “or building” in each place where they occur. Section 352(6). Sections 366 and 367. In section 369, in subsection (3), paragraph (b), in paragraph (c) the words from “and in particular” onwards and paragraph (f); in subsection (5) the words from “as applied” to “a house”. Sections 370 and 371. In section 372(1) the words from “to which” to “management code”, the word “or” at the end of paragraph (a) and paragraph (b). Section 374. In section 375, in subsection (1) the word “366”. In section 376, in subsection (1) the word “366”, in subsection (3)

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the words “and to the period for compliance” and subsection (4). In section 377, in subsection (1) (a) the word “366”. In section 378, in subsection (2) (a) the word “366”. Section 379(1)(c), except the word “or”. In section 381, in subsection (4) the words “366, 370”. In section 392, in subsection (5)(a) the word “366”. Sections 417 to 420. In section 423(2), the words “any description of authority or”. In section 434, the entries beginning “general rate fund”, “hostel”, “houses or other property within the account”, “Housing Repairs Account”, “Housing Revenue Account” and “loan charges”. In section 459, the entry beginning “Housing Revenue Account”. Sections 460 to 522. Sections 524 to 526. In section 567, in subsection (4), paragraph (c) except for the final “or”, in subsection (5), the words “regulations under subsection (4)(c) or” and subsection (6). In section 569, subsection (5). Sections 579 to 581. In section 582, the words from “section 192” to “beyond repair) or”. Sections 585 to 595. Section 598. In section 599, the words from “section 192” to “beyond repair)”. In section 602, the definition of “house”. In section 608, the words from “section 192” to “beyond repair) or”. In section 624 the entry beginning “house”. In Schedule 10, in paragraph 1, the words “section 214 or 215 (improvement notices)” and the word “366”, in paragraph 2(2)(b) the word “366”, paragraph 5 and

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		in paragraph 6, in sub-paragraph (1) the words from “or by an order” to “such expenses” and the words “or of the order” and in sub-paragraphs (2) and (3) the words “or order”; and in paragraph 8(1) the word “366”. Schedule 11. Schedule 12. In Schedule 13, in paragraph 21(4), the word “366” in paragraph (a), the word “or” at the end of paragraph (b), paragraph (c) and the words “or order”. Schedule 14. Schedules 22 to 24.
1985 c. 71.	The Housing(Consequential Provisions) Act 1985.	In Schedule 2, paragraph 4, in paragraph 24, sub-paragraphs (2)(a), (3)(a), (3)(c) and (4) (a) and paragraphs (c) to (f) of sub-paragraph (8) and paragraph 49.
1986 c. 1.	The Education (Amendment) Act 1986.	Sections 1 and 3.
1986 c. 10.	The Local Government Act 1986.	Section 11.
1986 c. 50.	The Social Security Act 1986.	In section 30(10), the words “rate fund”.
1986 c. 63	The Housing and Planning Act 1986.	Section 1. Section 15. Section 20. Section 42(1)(d). Schedule 3. In Schedule 5, sub-paragraphs (1) and (5) of paragraph 10.
1987 c. 26.	The Housing (Scotland) Act 1987.	In section 61(10)(a)(v), the words “in the discretion of the landlord”. Section 80.
1987 c. 47.	The Abolition of Domestic Rates Etc. (Scotland) Act 1987.	In Schedule 1, paragraph 28(a)(ii) and (iii).
1988 c. 4.	The Norfolk and Suffolk Broads Act 1988.	In Schedule 6, in paragraph 10, sub-paragraphs (6) and (7).
1988 c. 9.	The Local Government Act 1988.	In section 25, in subsection (2), in paragraph (d) the words “an improvement notice” and in paragraph (e) the words

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*Changes to legislation: Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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1988 c. 41.	The Local Government Finance Act 1988.	<p>“of an improvement notice under Part VII of the said Act of 1985 or” and the words “or the acceptance of an undertaking under the said Part VII”. In Schedule 3, paragraphs 7(2) and (3) and 15(a).</p>
1988 c. 43.	The Housing (Scotland) Act 1988.	<p>In section 33(4) the word “and” at the end of paragraph (c). In section 35, in subsections (3)(c) and (5)(c) the words “or under subsection (6) below”, and subsections (6) and (7). In section 44, in subsection (2), the words from “or” to the end and subsection (3). In section 46(2), the words from “or” to the end. In section 55(7)(b) the words “at a prescribed rate”. Section 77. In section 98(3)(d) the words “and calculated in a prescribed manner”. In section 99(2)(d) the words “at such rate as may be prescribed”. Section 119. Section 128(2). In section 140(2) the word “and” at the end of paragraph (e). In section 143(4) the words “57 or”. In Schedule 2, in paragraph 2(2)(m), the words from “and” to the end; paragraph 12. In Schedule 6, in paragraph 1 the words “, and parts of them,” and paragraph 4. In Schedule 7, in paragraph 10(1) the words “because of a failure to fulfil paragraph 9(2) or (3) above”. In Schedule 8, paragraphs 9(7), 11(3) and 12(6). In Schedule 9, in paragraph 2(2) (h), the words from “and” to the end; paragraph 6(2). In Schedule 12, paragraphs 16 and 37.</p>
		Section 2(6).



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1988 c. 50.	The Housing Act 1988.	In section 103, in subsection (4), at the end of paragraph (d) the word “and”. Section 129(5)(b).Section 130(2) .Section 131.
1989 c. 15.	The Water Act 1989.	In Schedule 25, paragraph 19 and in paragraph 80(2), the words from “to”, in the first place where it occurs, to “his power”, in the first place where they occur.

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- 1 The repeal in the City of London Sewers Act 1897 shall have effect on the commencement day, within the meaning of section 6 of this Act.
- 2 The repeals in Parts XIII and XIV of the Housing Act 1985, section 30 of the Social Security Act 1986 and section 129 of the Housing Act 1988 shall have effect for years beginning on or after 1st April 1990.
- 3 The repeals in Schedule 3 to the Local Government Act 1988 shall have effect in relation to reports made after the coming into force of, in the case of paragraph 7(2) and (3), section 26 and, in the case of paragraph 15(a),section 27 of this Act.
- 4 The repeals in the Local Government Finance Act 1988 shall have effect in accordance with Schedule 5 to this Act.

**Status:**

Point in time view as at 10/07/2011. This version of this Act contains provisions that are prospective.

**Changes to legislation:**

Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.