



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART III

#### ECONOMIC DEVELOPMENT AND DISCRETIONARY EXPENDITURE BY LOCAL AUTHORITIES

#### **33 Promotion of economic development**

- (1) Subject to sections 34 and 35 below, the functions of every relevant authority shall include the taking of such steps as they may from time to time consider appropriate for promoting the economic development of their area.
- (2) Subject to those sections and without prejudice to any other provision made by or under this Act, those steps may include participation in and the encouragement of, and provision of financial and other assistance for—
  - (a) the setting up or expansion of any commercial, industrial or public undertaking—
    - (i) which is to be or is situated in the authority's area; or
    - (ii) the setting up or expansion of which appears likely to increase the opportunities for employment of persons living in that area;
  - and
  - (b) the creation or protection of opportunities for employment with any such undertaking or with any commercial, industrial or public undertaking opportunities for employment with which have been or appear likely to be made available to persons living in that area.
- (3) For the purposes of this section a relevant authority shall be treated as providing financial assistance to any person if they do or agree to do any of the following, that is to say—
  - (a) make a grant to that person;
  - (b) make a loan to that person or provide him with any other form of credit;
  - (c) guarantee the performance of any of that person's obligations;
  - (d) indemnify that person in respect of any liability, loss or damage;

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- (e) invest in that person’s undertaking, in the case of a body corporate, by acquiring share or loan capital in that body or otherwise;
  - (f) provide that person with any property, services or other financial benefit (including the remission in whole or in part of any liability or obligation) for no consideration or for a consideration which does not satisfy such conditions as may be specified in regulations made by the Secretary of State;
  - (g) join with any other person in doing anything falling within paragraphs (a) to (f) above;
  - (h) enter into such other transaction, in the nature of anything falling within paragraphs (a) to (g) above, as may be specified in regulations made by the Secretary of State.
- (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.
- (5) In this section and sections 34 and 35 below—
- “financial year” means the twelve months ending with 31st March;
  - “relevant authority” means the council of any county, district or London borough, the Common Council of the City of London in its capacity as a local authority or the Council of the Isles of Scilly.

### **34 Restrictions on promotion of economic development**

- (1) The powers of a relevant authority by virtue of section 33 above, and their powers by virtue of other enactments, shall not include power, for the promotion of the economic development of their area, to take any such steps as may be specified or described for the purposes of this section in regulations made by the Secretary of State.
- (2) Without prejudice to the generality of subsection (1) above, the Secretary of State may by regulations impose such conditions, and such other restrictions, as may be specified in or determined under the regulations on the exercise, for the purpose of promoting the economic development of their area, of any power of a relevant authority by virtue of section 33 above or any other enactment to provide financial assistance to any person.
- (3) The Secretary of State may by order made by statutory instrument impose such a financial limit as may be specified in or determined under the order on the following expenditure, that is to say, such expenditure as—
- (a) is or is of a description so specified or determined; and
  - (b) by virtue of section 33 above or any other enactment is incurred in any financial year for the purpose of promoting the economic development of their area by a relevant authority so specified or determined.
- (4) A statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) 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.

### **35 Guidance and consultation about promotion of economic development**

- (1) It shall be the duty of a relevant authority, in determining whether and in what manner to incur any expenditure for the purpose of promoting the economic development of their area, to have regard to such guidance with respect to expenditure for that purpose as may have been given by the Secretary of State to that authority, to relevant authorities of a description applicable to that authority or to relevant authorities generally.
- (2) It shall be the duty of a relevant authority, before the beginning of each financial year, to determine whether they will take any steps in that year for the promotion of the economic development of their area.
- (3) Where under subsection (2) above a relevant authority make a determination in relation to any financial year that they will take steps in that year for the promotion of the economic development of their area, it shall be the duty of that authority, before the beginning of that year—
  - (a) to prepare a document setting out their proposals as to the steps to be taken and setting out the other matters mentioned in subsection (4) below;
  - (b) to make that document available—
    - (i) to such bodies as are representative of commercial or industrial undertakings in their area;
    - (ii) to such of the persons carrying on commercial, industrial and public undertakings in their area as they consider appropriate; and
    - (iii) to such other persons as they think it desirable to consult about the proposals contained in it; and
  - (c) to consult the persons to whom the document is made available about the proposals contained in it.
- (4) The other matters which are required to be set out in the document relating to a relevant authority's proposals as to the taking of any steps are—
  - (a) the authority's proposals as to the expenditure to be incurred by them in taking those steps and as to the extent to which that expenditure is to be capital or revenue expenditure and is to be attributable to different proposals;
  - (b) the authority's estimate of any income likely to accrue from the implementation of their proposals; and
  - (c) what the authority intend the implementation of their proposals to achieve.

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

- (1) Section 137 of the Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised) shall be amended in 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—

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“(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
- (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 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”.

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

After section 137 of the 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
  - (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.”

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### **38 Information etc. on individuals' rights**

(1) Section 142 of the 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.”