



Local Government Act 1992

CHAPTER 19

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Local Government Act 1992

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Local Government Act 1992

1992 CHAPTER 19

An Act to make new provision, by giving effect to proposals in Cm. 1599 (The Citizen's Charter) relating to publicity and competition, for securing economy, efficiency and effectiveness in the manner in which local authorities carry on certain activities; and to make new provision in relation to local government in England for effecting structural, boundary and electoral changes. [6th March 1992]

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:—

PART I

CITIZEN'S CHARTER PROVISIONS

Performance standards of local authorities etc.

1.—(1) The Audit Commission and the Scottish Accounts Commission shall each give such directions as it thinks fit for requiring relevant bodies to publish such information relating to their activities in any financial year as will, in that Commission's opinion, facilitate the making of appropriate comparisons (by reference to the criteria of cost, economy, efficiency and effectiveness) between—

- (a) the standards of performance achieved by different relevant bodies in that financial year; and
- (b) the standards of performance achieved by such bodies in different financial years.

(2) Where a relevant body are required by a direction under this section to publish information in relation to any financial year, it shall be the duty of that body—

- (a) to make such arrangements for collecting and recording the information as secure that the information is available for publication and, so far as practicable, that everything published in pursuance of the direction is accurate and complete;

Publication of information as to standards of performance.

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(b) within the period of nine months beginning with the end of that financial year, to publish the information, in accordance with the direction, in a newspaper circulating in the area of that body; and

(c) to keep a document containing any information published in pursuance of the direction available for inspection by interested persons.

(3) The Secretary of State may by order made by statutory instrument vary the period for the time being specified in paragraph (b) of subsection (2) above so as to fix the latest time for the publication of information in accordance with that paragraph at any such time, within the period of nine months after the end of the financial year in question, as may be specified in the order; 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.

(4) An interested person shall be entitled—

(a) at all reasonable times and without payment, to inspect and make copies of the whole or any part of a document kept available for inspection under subsection (2)(c) above; and

(b) to require copies of the whole or a part of any such document to be delivered to him on payment of a reasonable sum for each copy.

(5) Any person having custody of any document kept available for inspection under subsection (2)(c) above who—

(a) obstructs a person in the exercise of his rights under subsection (4) above; or

(b) refuses to comply with a requirement under subsection (4)(b) above,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(6) References in this section to an interested person, in relation to any document which is required to be kept available by a relevant body in England and Wales, are references to any local government elector (within the meaning of the 1972 Act) for the area of that body.

(7) References in this section and sections 2 and 3 below to a relevant body are references—

(a) in relation to England and Wales, to any body with which the Audit Commission is concerned, other than one falling within subsection (8) below; and

(b) in relation to Scotland, to any local authority, joint board or joint committee, within the meaning of the 1973 Act.

(8) Subject to section 4 below, the bodies with which the Audit Commission is concerned which shall not be relevant bodies for the purposes of this section and sections 2 to 3 below are—

(a) parish and community councils and any parish meeting of a parish not having a separate parish council;

(b) charter trustees constituted under section 246 of the 1972 Act;

(c) health service bodies within the meaning of Part III of the 1982 Act;

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- (d) port health authorities;
- (e) licensing planning committees;
- (f) internal drainage boards;
- (g) probation committees; and
- (h) Passenger Transport Executives.

2.—(1) A direction under section 1 above requiring the publication of information shall— Directions under s. 1.

- (a) identify the financial year or years in relation to which the information is to be published;
- (b) specify or describe the activities to which the information is to relate; and
- (c) make provision as to the matters to be contained in the information and as to the form in which it is to be published.

(2) A direction under section 1 above—

- (a) may be given so as to apply either to all the relevant bodies with which the Commission giving the direction is concerned or to all such bodies as are of a description specified in the direction; and
- (b) may be varied or revoked by any subsequent direction under that section.

(3) Before giving a direction under section 1 above which imposes a new requirement on any relevant body as to the publication of any information the Audit Commission or Scottish Accounts Commission shall consult such associations of relevant bodies and such other persons as it thinks fit.

(4) A direction under section 1 above imposing a new requirement on any relevant body as to the publication of any information shall not be given any later than the 31st December in the financial year which precedes that in relation to which the information is to be published.

(5) Where the Audit Commission or the Scottish Accounts Commission gives a direction under section 1 above, it shall—

- (a) publish the direction in such manner as it considers appropriate for bringing it to the attention of members of the public; and
- (b) send a copy of the direction to every relevant body on whom duties are imposed by virtue of the direction.

(6) References in this section to the imposition of a new requirement on a relevant body as to the publication of information are references to—

- (a) the imposition of any requirement by the first direction under section 1 above to apply to that body; or
- (b) any subsequent extension of, or addition to, either—
 - (i) the matters to be contained in the information which that body are required to publish in relation to any financial year in pursuance of directions under section 1 above; or
 - (ii) the activities to which any such information is to relate.

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Functions of
auditor and
studies by the
Commissions.

3.—(1) In section 15(1) of the 1982 Act (duties of auditors), at the end of paragraph (c) there shall be inserted “and

(d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that that body have made such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.”

(2) In section 99 of the 1973 Act (which makes corresponding provision for Scotland), at the end of paragraph (c) there shall be inserted “and

(d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that body have made such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.”

(3) The comparative and other studies which the Audit Commission is required to undertake or promote under section 26(1) of the 1982 Act, and those which the Scottish Accounts Commission is required to undertake or promote under section 97A(1) of the 1973 Act, shall include, in particular—

(a) studies designed to enable the Audit Commission or, as the case may be, the Scottish Accounts Commission to determine what directions it should give under section 1 above; and

(b) studies of information published in pursuance of directions under section 1 above which are designed to enable the Commission in question to determine, in relation to each financial year, what comparative information to publish itself about the standards of performance achieved by relevant bodies;

but neither Commission shall be required by section 26(4) of the 1982 Act or section 97A(3) of the 1973 Act to consult any person before undertaking or promoting a study falling within paragraph (a) or (b) above.

Application to
parish and
community
councils and
charter trustees.

4.—(1) The Secretary of State may by order provide for sections 1 to 3 above to have effect as if—

(a) parish and community councils in England and Wales; and

(b) charter trustees constituted under section 246 of the 1972 Act, were relevant bodies for the purposes of those sections.

(2) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(3) The power to make an order under this section shall include power—

(a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and

- (b) to make different provision for different cases, including different provision for different localities and for different bodies.

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Auditors' reports and recommendations

5.—(1) Where, at any time after the coming into force of this section, a body to which this section applies or, in the case of a parish meeting, their chairman is sent, in connection with the audit of that body's accounts— Duty to consider auditor's report or recommendation.

- (a) a report under section 15(3) of the 1982 Act (an auditor's report) or, in Scotland, a copy of a report from the Controller of Audit under section 102(1) or (2) of the 1973 Act; or
- (b) such a written recommendation to that body by an auditor as is stated, in the document containing the recommendation, to be one which, in the auditor's opinion, should be considered under this section or, in Scotland, a recommendation to that body from the Scottish Accounts Commission under section 103(1) of the 1973 Act,

it shall be the duty of the body concerned to consider the report or recommendation in accordance with the following provisions of this section and section 6 below.

(2) The duty under this section of any body to consider a report or recommendation is a duty—

- (a) to consider it at a meeting held before the end of the period of four months beginning with the day on which the report or recommendation was sent to that body or, as the case may be, to their chairman; and
- (b) to decide at that meeting—
- (i) whether the report requires that body to take any action or whether the recommendation is to be accepted; and
 - (ii) what, if any, action to take in response to the report or recommendation.

(3) If—

- (a) an auditor is satisfied, in the case of any body in England and Wales to which, or to whose chairman, any report or recommendation has been sent, that it is reasonable to allow more time for the body to comply with their duties under subsection (2) above in relation to that report or recommendation;
- (b) the Controller of Audit is so satisfied in the case of any body to which a copy of a report under section 102(1) or (2) of the 1973 Act has been sent; or
- (c) the Scottish Accounts Commission is so satisfied in the case of any body to which a recommendation under section 103(1) of the 1973 Act has been sent,

the auditor, Controller of Audit or, as the case may be, Scottish Accounts Commission may, in relation to that report or recommendation, extend the period of four months mentioned in subsection (2)(a) above or (where it has already been extended under this subsection on one or more previous occasions) further extend it.

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(4) Nothing in section 101 of the 1972 Act (delegation of functions) shall apply to any duty imposed by this section on a body to which this section applies; and the duty imposed by this section on any body in Scotland shall be discharged only by that body.

(5) In subsection (3) of section 18 of the 1982 Act (which imposes an obligation to take an auditor's report into consideration as soon as practicable after it is received), for the words from "as soon as" to the end of the subsection there shall be substituted the words "in accordance with sections 5 and 6 of the Local Government Act 1992, or in the case of a body to which that section 5 does not apply, as soon as practicable after they receive the report."

(6) This section applies—

- (a) to every body with which the Audit Commission is concerned, other than one falling within any of paragraphs (b) to (h) of section 1(8) above; and
- (b) to every local authority, joint board or joint committee, within the meaning of the 1973 Act.

(7) This section shall be without prejudice to any duties (so far as they relate to the subject-matter of a report or recommendation sent to a body to which this section applies) which are imposed by or under Part III of the 1982 Act or Part VII of the 1973 Act (accounts and audit in England and Wales and in Scotland), sections 114 to 116 of the Local Government Finance Act 1988 (functions and reports of finance officers), section 5 of the Local Government and Housing Act 1989 (functions of monitoring officers) or any other enactment.

1988 c. 41.

1989 c. 42.

Publicity
requirements for
meetings under
s. 5.

6.—(1) A meeting shall not be held for the purposes of section 5 above unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the body concerned, a notice which—

- (a) states the time and place of the meeting;
- (b) indicates that the meeting is to be held in order for consideration to be given to a report by an auditor or the Controller of Audit or, as the case may be, to a recommendation of an auditor or of the Scottish Accounts Commission; and
- (c) describes the subject-matter of that report or recommendation.

(2) It shall be the duty of a body who have held a meeting for the purposes of section 5 above to ensure—

- (a) that the relevant authority is notified, as soon as practicable after the end of the meeting, of the decisions made at that meeting in pursuance of subsection (2)(b) of that section; and
- (b) that a notice containing such a summary of those decisions as has been approved by the relevant authority is published, as soon as practicable after the end of the meeting, in a newspaper circulating in that body's area.

(3) A notice published for the purposes of subsection (2)(b) above in relation to any meeting—

- (a) shall not be required to summarise any decision made while the public were excluded from the meeting—

(i) under section 100A(2) of the 1972 Act or section 50A(2) of the 1973 Act (confidential matters);

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(ii) in pursuance of a resolution under section 100A(4) of the 1972 Act or section 50A(4) of the 1973 Act (exempt information); or

(iii) in pursuance of a resolution under section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 (protection of public interest);

1960 c. 67.

but

(b) in a case where sections 100C and 100D of the 1972 Act or sections 50C and 50D of the 1973 Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents in relation to that meeting which are open for inspection in accordance with those sections.

(4) In subsection (2) above “the relevant authority”—

(a) in relation to a meeting of any body with which the Audit Commission is concerned, means the auditor of that body’s accounts;

(b) in relation to a meeting for the consideration of a report of the Controller of Audit, means the Controller of Audit; and

(c) in relation to a meeting for the consideration of a recommendation from the Scottish Accounts Commission, means that Commission.

(5) This section, so far as it has effect in relation to a meeting under section 5 above, shall so have effect without prejudice to, and in addition to, any provision made in relation to meetings of the body in question by section 18(5) of the 1982 Act (information in advance of meetings to consider auditor’s report) or by or under the 1972 Act, the 1973 Act, the Public Bodies (Admission to Meetings) Act 1960 or any other enactment.

Publication of information by the Audit Commission

7.—(1) Subject to the following provisions of this section, the Audit Commission shall have power to publish such information as it thinks fit with respect to any of the matters mentioned in subsection (2) below.

Publication of
information by
the Audit
Commission.

(2) The matters referred to in subsection (1) above are—

(a) a contravention by a body with which that Commission is concerned of any obligation imposed on that body by virtue of subsection (2) of section 1 above;

(b) the making by an auditor of a report under section 15(3) of the 1982 Act to any such body, the subject-matter of any such report and the decision made and other action taken by any such body in response to the receipt of any such report or to anything contained in it;

(c) a contravention by any such body of any regulations made under section 23 of the 1982 Act (regulations with respect to accounts).

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(3) The information that may be published by virtue of subsection (2)(b) above shall not include—

- (a) information with respect to a report made to a health service body, within the meaning of Part III of the 1982 Act, or to any decision or other action by such a body; or
- (b) information excluded under subsection (3)(a) of section 6 above from any notice published for the purposes of subsection (2)(b) of that section.

(4) The information that may be published under this section shall include information with respect to a contravention which occurred, to a report which was made and to any decision or action which was made or taken before the coming into force of this section.

(5) Before publishing any information under this section relating to—

- (a) the conduct or decisions of any body with which it is concerned; or
- (b) a report made to any such body,

the Audit Commission shall notify that body of its proposal to publish the information.

(6) Information published under this section shall be published in such manner as the Audit Commission considers appropriate for bringing the information to the attention of those members of the public who may be interested.

Competition

Application of competitive tendering to professional services etc.

8.—(1) The Secretary of State may by order make such provision in relation to proposals for the carrying out of work to which this section applies as he considers appropriate for facilitating or requiring separate procedures to be followed for—

- (a) the evaluation for the purposes of Part I of the 1988 Act of the quality of the services which persons willing to carry out the work are able to provide and of their fitness to provide them; and
- (b) the evaluation for those purposes of the financial terms on which such persons would carry out the work.

(2) This section applies to any work which—

- (a) by virtue of an order under section 2(3) of the 1988 Act, falls within a defined activity for the purposes of Part I of that Act; and
- (b) consists in, or involves, the provision of professional advice or of other professional services or the application of any financial or technical expertise.

(3) Before making an order under this section the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.

(4) The power to make an order under this section shall be exercisable by statutory instrument; and no such order shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

(5) The power to make an order under this section shall include power— PART I

- (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
- (b) to make different provision for different cases, including different provision for different localities and for different authorities;

and the power conferred by virtue of paragraph (a) above shall include power, for the purposes of, or in connection with, any separate procedures for which an order under this section provides, to modify any of the provisions of Part I of the 1988 Act.

(6) The powers conferred by this section shall be without prejudice to the power conferred by section 15(8)(a) of the 1988 Act (power to make incidental modifications in connection with an order extending the defined activities).

9.—(1) The Secretary of State may by regulations make provision, for the purposes of one or more of the conditions mentioned in subsection (2) below, for conduct described in the regulations to be regarded, in accordance with the regulations and in such circumstances as may be so described— Power to define conduct as competitive or anti-competitive.

- (a) as conduct which has the effect of restricting, preventing or distorting competition or is likely to have that effect; or
- (b) as conduct which does not have that effect and is not likely to have that effect.

(2) The conditions referred to in subsection (1) above are—

- (a) the condition specified in section 7(1A) of the 1980 Act (competition condition in the case of certain works contracts);
- (b) the condition specified in section 9(4)(aaaa) of the 1980 Act (competition condition applying in the case of prescribed construction or maintenance work);
- (c) the condition set out in section 4(5) of the 1988 Act (competition condition in the case of works contracts relating to work falling within a defined activity);
- (d) the condition set out in section 7(7) of the 1988 Act (competition condition in the case of functional work falling within such an activity).

(3) Without prejudice to the generality of subsection (1) above or to any power conferred by section 8 of the 1988 Act (regulations with respect to fulfilment of conditions), regulations under this section may—

- (a) prescribe the matters which are to be taken into account, or disregarded, in the course of any evaluation made for the purpose of deciding who should undertake or carry out particular work;
- (b) prescribe the manner in which, or extent to which, any matter described in the regulations is to be so taken into account or disregarded;

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- (c) prescribe maximum and minimum periods for the periods which are required, by virtue of paragraphs (b) and (d) of subsection (2) of section 7 of the 1988 Act, to be specified in a notice published for the purposes of subsection (1) of that section (periods for inspection of specification and for notifying an authority of a wish to tender);
- (d) prescribe a maximum and a minimum period for the period which is to elapse, in a case where a notice has been so published, between—
 - (i) the announcement of the decision as to who should carry out the work in question; and
 - (ii) the beginning of the period during which the work is to be carried out;
- (e) make provision for the issue by the Secretary of State of guidance as to how conduct restricting, distorting or preventing competition is to be avoided in the doing of anything under or for the purposes of Part III of the 1980 Act or Part I of the 1988 Act; and
- (f) require the extent (if any) to which there has been a contravention of guidance issued by the Secretary of State under the regulations to be taken into account in any determination of whether or not a condition mentioned in subsection (2) above has been fulfilled.

(4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and that power shall include power—

- (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
- (b) to make different provision for different cases, including different provision for different localities and for different bodies.

Publicity for
tender
specifications.

10.—(1) This section applies where a relevant authority make a decision in consequence of which any work is required to be carried out (whether by the authority themselves or by some other person) in accordance with a specification which has been either—

- (a) prepared for the purposes of an invitation issued for the purposes of section 9(4)(a) of the 1980 Act (competitive tendering for construction and maintenance work); or
- (b) made available for inspection in accordance with a notice published for the purposes of section 7(1) of the 1988 Act (competitive tendering for other functional work).

(2) Where this section applies, it shall be the duty of the authority making the decision—

- (a) to make arrangements for—
 - (i) a copy of the specification; and

- (ii) a document containing a summary of the main requirements of the specification,
to be kept available, throughout the period during which the work in question is to be carried out, for inspection by members of the public, at all reasonable hours, at the principal office of the authority; and
- (b) to give such publicity to those arrangements as they think sufficient for drawing the attention of members of the public who may be interested to the fact that the specification and that document are so available.
- (3) In this section “relevant authority” means any body which is a local authority or development body within the meaning of Part III of the 1980 Act or a defined authority within the meaning of Part I of the 1988 Act.

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11. Part III of the 1980 Act and Part I of the 1988 Act (competition provisions) shall have effect with the amendments specified in Schedule 1 to this Act.

Amendments of competition provisions.

PART II

LOCAL GOVERNMENT CHANGES FOR ENGLAND

The Local Government Commission

12.—(1) There shall be a body corporate to be known as the Local Government Commission for England (in this Part referred to as “the Local Government Commission”) for the purpose of carrying out the functions assigned to it by section 13 below.

The Local Government Commission for England.

(2) Schedule 2 to this Act shall have effect with respect to the Local Government Commission.

Functions of the Local Government Commission

13.—(1) If the Secretary of State so directs, the Local Government Commission shall, in accordance with this Part and any directions given under it—

Duty to conduct reviews and make recommendations.

- (a) conduct a review of such areas in England as are specified in the direction or are of a description so specified; and
- (b) recommend to the Secretary of State as respects each of those areas either—
- (i) that he should make such structural, boundary or electoral changes as are specified in the recommendations; or
- (ii) that he should make no such changes.
- (2) It shall also be the duty of the Local Government Commission—
- (a) independently of any reviews under subsection (1) above, to conduct periodic reviews of every principal area in England for the purpose of determining whether recommendations should be made for electoral changes in that area; and
- (b) as respects any area reviewed, to recommend to the Secretary of State either—
- (i) that he should make such electoral changes as are specified in the recommendations; or
- (ii) that he should make no such changes.

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(3) So far as reasonably practicable, the first periodic review of any area under subsection (2) above shall be conducted not less than ten or more than fifteen years after the report of the Local Government Boundary Commission for England on a review under Schedule 9 to the 1972 Act (initial review of counties) was submitted to the Secretary of State in relation to the county in which that area, or the greater part of it, was comprised.

(4) So far as reasonably practicable, subsequent reviews under subsection (2) above shall be conducted within the period of not less than ten or more than fifteen years from the submission to the Secretary of State of the last report on a review under that subsection of any area comprising the whole or a substantial part of that area.

(5) Any structural, boundary or electoral changes recommended to the Secretary of State under this section shall be such as appear to the Local Government Commission desirable having regard to the need—

- (a) to reflect the identities and interests of local communities; and
- (b) to secure effective and convenient local government.

(6) The Secretary of State may give directions as to the exercise by the Local Government Commission of any functions under this section; and such directions may require that Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.

Changes that may be recommended.

14.—(1) For the purposes of this Part—

- (a) a structural change is the replacement, in any non-metropolitan area, of the two principal tiers of local government with a single tier;
- (b) a boundary change is any of the changes specified in subsection (3) below, whether made for the purpose of facilitating a structural change or independently of any such change; and
- (c) an electoral change is a change of electoral arrangements for any local government area, whether made in consequence of any structural or boundary change or independently of any such change;

and recommendations by the Local Government Commission for any structural or boundary changes shall include such recommendations as to the matters mentioned in subsection (5) below as the Commission thinks appropriate in connection with the recommended changes.

(2) In subsection (1)(a) above—

- (a) the reference to a non-metropolitan area is a reference to any area which is or, as a result of any recommended boundary change would be, a non-metropolitan county or a non-metropolitan district; and
- (b) the reference to the replacement, in any such area, of the two principal tiers of local government with a single tier is a reference to either—

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- (i) the transfer to a council for a county consisting of that area of the functions in relation to that area of district councils; or
 - (ii) the transfer to a district council for that area of the functions in relation to that area of a county council.
- (3) The changes mentioned in subsection (1)(b) above are—
 - (a) the alteration of a local government area, including the alteration of so much of the boundary of any such area as lies below the high-water mark of medium tides, but excluding the extension of any local government area into Wales;
 - (b) the constitution of a new local government area of any description outside Greater London by the amalgamation of two or more such areas of the like description or by the aggregation of parts of such areas of the like description or by the separation of part of any local government area;
 - (c) the abolition of a principal area of any description outside Greater London, or of a metropolitan county, and its distribution among other areas of the like description;
 - (d) the constitution of a new London borough by the amalgamation of two or more London boroughs or by the aggregation of parts of London boroughs or by the separation of part of a London borough;
 - (e) the abolition of a London borough and the distribution of its area among other London boroughs;
 - (f) the constitution of a new parish by—
 - (i) the establishment as a parish of any area which is not a parish or part of one; or
 - (ii) the aggregation of the whole or any part of any such area with one or more parishes or parts of parishes; and
 - (g) the abolition of a parish, with or without the distribution of its area among other parishes.
- (4) In subsection (1)(c) above “electoral arrangements” means—
 - (a) in relation to a principal area—
 - (i) the number of councillors of the council for that area;
 - (ii) the number and boundaries of the electoral areas into which that area is for the time being divided for the purposes of the election of councillors;
 - (iii) the number of councillors to be elected for any electoral area in that principal area and the years in which they are to be so elected; and
 - (iv) the name of any electoral area;
 - (b) in relation to a parish council—
 - (i) the number of councillors;
 - (ii) the question whether or not the parish or (in the case of a common parish council) any of the parishes should be divided into wards for the purposes of the election of councillors;
 - (iii) the number and boundaries of any such wards;

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- (iv) the number of councillors to be elected for any such ward or, in the case of a common parish, for each parish; and
- (v) the name of any such ward.

(5) The matters mentioned in subsection (1) above are—

- (a) the abolition of any local authority whose functions would all vest in another as a result of any recommended structural change or whose area would be abolished or otherwise substantially affected by any recommended boundary change;
- (b) the establishment, as a county or district council, of a new authority for any area which would result from any recommended boundary change involving the amalgamation or aggregation of areas or parts of areas or involving other substantial alterations of areas;
- (c) the extent to which a structural or boundary change requires (whether because functions become vested in an authority for a smaller area or for any other reason connected with the change) that joint arrangements should be made in relation to functions affected by the change; and
- (d) whether, in connection with any recommended structural change, any authority should, for the purpose of the vesting of functions under Part II of the Town and Country Planning Act 1990 (development plans) in that authority—
 - (i) be treated as an authority to whose area Chapter I of that Part (unitary plans) applies, instead of Chapter II (structure and local plans); or
 - (ii) be authorised to include any of the policies mentioned in section 37 or 38 of that Act (mineral and waste plans) in their local plan.

1990 c. 8.

(6) For the purposes of this Part the establishment of a new authority as the county or district council for any area shall be taken to include provision, subject to any necessary electoral changes—

- (a) for an existing county council to become the district council for any area comprising a part of a county or for any two or more such areas; or
- (b) for an existing district council to become the county council for an area comprising any one or more districts.

(7) For the purposes of this section—

- (a) a metropolitan district and a non-metropolitan district shall be regarded as local government areas of a like description and so shall a metropolitan county and a non-metropolitan county; and
- (b) any county or district resulting from the amalgamation or aggregation of the whole or any part of a metropolitan area with the whole or any part of a non-metropolitan area shall be regarded as a non-metropolitan county or, as the case may be, district.

Procedure on a review.

15.—(1) As soon as reasonably practicable after being directed to conduct a review, the Local Government Commission shall take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—

PART II

- (a) the direction requiring that review to be conducted;
- (b) any other directions under this Part which are relevant to the review; and
- (c) the period within which representations with respect to the subject-matter of the review may be made.

(2) As soon as reasonably practicable after deciding to conduct a periodic review of any area under section 13(2) above, the Local Government Commission shall take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—

- (a) the fact that the Commission is to conduct a periodic review of that area;
- (b) any directions under this Part which are relevant to the review; and
- (c) the period within which representations with respect to the subject-matter of the review may be made.

(3) In conducting a review, the Local Government Commission shall—

- (a) take into consideration any representations made to it within the period mentioned in subsection (1)(c) or (2)(c) above;
- (b) prepare draft recommendations and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made;
- (c) deposit copies of the draft recommendations at the principal office of any principal council appearing to that Commission to be likely to be affected by them; and
- (d) take into consideration any representations made to that Commission within that period.

(4) As soon as the Local Government Commission is in a position to submit to the Secretary of State a report on a review, it shall—

- (a) submit such a report to him together with its recommendations;
- (b) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which they may be inspected; and
- (c) deposit copies of the recommendations at the principal office of any principal council appearing to that Commission to be likely to be affected by them.

(5) Copies of any draft recommendations deposited at the principal office of a principal council under subsection (3)(c) above, and of any recommendations deposited at any such office under subsection (4)(c) above, shall be kept available for inspection at that office throughout the period within which representations with respect to them may be made or, as the case may be, within which they may be inspected.

(6) Where the report on a review is submitted to the Secretary of State under subsection (4) above, he may, if he thinks fit, direct the Local Government Commission to conduct a further review of any area to which the report relates and to make revised recommendations as respects that area; and this section shall apply in relation to the further review with such modifications as may be specified in the direction.

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(7) The Secretary of State may give directions as to the exercise by the Local Government Commission of any functions under this section; and such directions may require that Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.

(8) This section shall have effect as if the Common Council of the City of London were a principal council and the City of London included the Inner Temple and the Middle Temple.

Consultation with
the Audit
Commission.

16.—(1) The Audit Commission shall, if so required by the Local Government Commission, provide it with a written opinion as to the likely impact of any proposed structural changes on economy, efficiency and effectiveness in the provision of services provided by such bodies with which the Audit Commission is concerned as are likely to be affected by the changes.

(2) The Audit Commission may require any body with which it is concerned to supply the Audit Commission with all such information as it may reasonably require for the provision of an opinion under this section.

(3) The Audit Commission shall charge the Local Government Commission such fees for opinions provided under this section as will cover the full cost of providing them.

Implementation of recommendations

Implementation of
recommendations
by order.

17.—(1) Where the Local Government Commission submit to the Secretary of State a report on a review together with its recommendations, he may, if he thinks fit, by order give effect to all or any of the recommendations, with or without modifications.

(2) No order under this section shall be made before the end of the period of six weeks beginning with the submission of the report; and before making such an order, the Secretary of State may by a direction require the Local Government Commission to supply him with such additional information as may be described in the direction.

(3) An order under this section may, in particular, include provision which, for the purpose of giving effect (with or without modifications) to recommendations of the Local Government Commission, makes provision with respect to—

- (a) the area of any authority and the name of any such area;
- (b) the name of any authority;
- (c) the establishment of any new authority for any county or district or the winding up and dissolution of any existing authority;
- (d) the total number of councillors of any authority, the apportionment of councillors among electoral areas, the assignment of existing councillors to new or altered electoral areas, and the first election of councillors for any new or altered electoral area;
- (e) without prejudice to paragraph (d) above, the holding of a fresh election of councillors for all electoral areas in a local government area where substantial changes have been made to some of those areas, or the order of retirement of councillors for any electoral areas in the local government area in question;

PART II

- (f) in the case of an order relating to the system of election of district councillors, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the district;
- (g) the constitution and election of public bodies in any area affected by the order;
- (h) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by the order.

(4) The power to make an order under this section shall include power to make any such provision in relation to the other provisions of that order, or to the provisions of any previous order under this section, as is equivalent to that which may be contained in regulations under section 19 below or in an agreement under section 20 below.

(5) Without prejudice to the preceding provisions of this section, where charter trustees have been constituted under section 246 of the 1972 Act for an area which is altered by an order under this section and subsection (8) of that section (incorporation of whole or part of trustees' area in parish) does not apply, the order may make such provision with respect to the charter trustees as appears to the Secretary of State to be appropriate.

18.—(1) Where an order under section 17 above gives effect to any structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, then the county council—

Consequences of structural changes etc.

- (a) shall, for any financial year beginning at the same time as or after the coming into force of the change, be a billing authority for the purposes of Part I of the Local Government Finance Act 1992 in relation to their area; and
- (b) shall not, for any such year, be a major precepting authority for those purposes.

1992 c. 14.

(2) An order under section 17 above which contains provision for a structural change—

- (a) shall include provision for any district the council for which are, under the order, to have the functions of a county council in relation to that district to be treated as a county for the purposes of the Police Act 1964; and
- (b) may provide, for the purposes of the approval or making of an amalgamation scheme under Part I of that Act, that the area of a district in relation to which the council of any county affected by the order are to have any functions is to be treated as an area that would become a police area by virtue of the order.

1964 c. 48.

(3) An order under section 17 above which contains provision for a structural change—

- (a) shall provide that, subject to any combination scheme under the Fire Services Act 1947, any district the council for which are, under the order, to have the functions of a county council in relation to that district is to become the area of a fire authority for the purposes of that Act; and

1947 c. 41.

PART II

(b) may provide, for the purposes of the making of any combination scheme under that Act, that the area of any district in relation to which the council of any county affected by the order are to have any functions is to be treated as an area that would become the area of a fire authority by virtue of the order.

(4) It shall be the duty of the Secretary of State to have regard to any recommendations made by the Local Government Commission by virtue of section 14(5)(c) above in determining whether and how to exercise—

1964 c. 48.

(a) his powers under Part I of the Police Act 1964 to approve or make an amalgamation scheme; or

1947 c. 41.

(b) his powers under the Fire Services Act 1947 to approve or make a combination scheme,

in relation to any areas which have been or are to be affected by any order under section 17 above, or in relation to any such area and other areas.

(5) This section shall be without prejudice to the power to make any provision by order under this Part or to any power to make incidental, consequential, transitional or supplementary provision in connection with the provisions of any such order.

Regulations for supplementing orders.

19.—(1) The Secretary of State may by regulations of general application make such incidental, consequential, transitional or supplementary provision as he thinks necessary or expedient for the purposes or in consequence of any orders under section 17 above, or for giving full effect to orders under that section.

(2) Regulations under this section may, in particular, include provision of general application with respect to—

(a) the transfer of functions, property, rights or liabilities from a local authority for any area to another local authority whose area consists of or includes the whole or any part of that area;

(b) the transfer of property, rights or liabilities, and of related functions, from an authority which ceases to exist to a residuary body established under section 22 below;

(c) the management or custody of transferred property (whether real or personal);

(d) the functions or areas of jurisdiction of any public body or of any of the following persons—

1979 c. 55.

(i) any justice of the peace, stipendiary magistrate, coroner or keeper of the rolls for a commission area (within the meaning of the Justices of the Peace Act 1979);

(ii) any lord-lieutenant, lieutenant or high sheriff;

(iii) any other officers (including police officers) within the area of any local authority affected by any such order,

and the costs and expenses of such public bodies and persons.

(3) In their application in relation to any order under section 17 above, regulations under this section shall have effect subject to any provision made under that section.

(4) Any regulations under section 67 of the 1972 Act (regulations in connection with implementation of proposals under Part IV of that Act) which are in force at the commencement of this section shall have effect, without prejudice to their operation in relation to any order made under

that Part after the commencement of this section (whether by virtue of section 24(3) below or otherwise) and subject to any regulations under this section, as if orders under section 17 above were orders under that Part.

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20.—(1) Any public bodies affected by an order under this Part may from time to time make agreements with respect to any property, income, rights, liabilities and expenses (so far as affected by the order) of, and any financial relations between, the parties to the agreement.

Agreements as to incidental matters.

(2) Such an agreement may provide—

- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
- (b) for the making of payments by either party to the agreement in respect of property, rights and liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
- (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.

(3) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator—

- (a) agreed on by the parties; or
- (b) in default of agreement, appointed by the Secretary of State;

and the award of the arbitrator may make any provision that might be contained in an agreement under this section.

(4) In subsection (3) above “disputed matter” means any matter which—

- (a) might be the subject of provision contained in an agreement under this section; and
- (b) is the subject of such a dispute between two or more public bodies as is not resolved by or under provision contained in any order or regulations under this Part.

21.—(1) This section applies to any functions which are to be or have become functions of any authority as a result of any structural or boundary change if the Secretary of State considers, having regard to any recommendations to that effect made by the Local Government Commission by virtue of section 14(5)(c) above, that they should be carried out in accordance with joint arrangements.

Joint authorities.

(2) Where it appears to the Secretary of State that joint arrangements, or satisfactory joint arrangements, with respect to any functions to which this section applies—

- (a) have not been made by the authorities in whom those functions are to be or have been vested;
- (b) will not be in force when the structural or boundary change in question comes into force; or

PART II

(c) have ceased or will cease to be in operation,

he may, for the areas of those authorities, by order establish a joint authority, which may be a body corporate, to carry out those functions, from a date specified in the order until such joint arrangements as appear to him to be satisfactory are brought into force.

(3) An order under this section may make provision for enabling the Secretary of State to require the joint authority to submit to him a scheme for the winding up of the joint authority and for the transfer—

(a) to any of the authorities for whose areas the joint authority is established; or

(b) to any body established in pursuance of any joint arrangements made by or in relation to those authorities,

of any of the joint authority's property, rights and liabilities or of any functions which it carries out.

(4) The Secretary of State may by order provide—

(a) for excluding any functions, or any functions in any area, from those falling to be carried out by a joint authority; and

(b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (3) above and for the dissolution of a joint authority.

(5) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient, including provision for the transfer of property, rights and liabilities.

Residuary bodies.

22.—(1) The Secretary of State may by order establish one or more bodies ("residuary bodies"), which shall be bodies corporate, for the purpose of taking over any property, rights or liabilities, and any related functions, of local authorities which cease to exist by virtue of orders under section 17 above.

(2) An order under subsection (1) above may—

(a) make provision with respect to the constitution and membership of a residuary body;

(b) make provision with respect to the powers of a residuary body to make levies and to borrow and lend money and the treatment and distribution of capital and other money by such a body;

(c) make provision with respect to the keeping and auditing of accounts of a residuary body;

(d) make provision with respect to directions which may be given by the Secretary of State in relation to the carrying out by a residuary body of any of its functions;

(e) make provision for enabling the Secretary of State to require a residuary body to submit to him a scheme for the winding up of the body and the disposal of its property, rights and liabilities and related functions; and

(f) without prejudice to the generality of paragraphs (a) to (e) above, make any such provision with respect to a residuary body as was made by Part VII of the Local Government Act 1985 with respect to the residuary bodies established by that Part.

(3) The Secretary of State may by order provide—

PART II

- (a) for the transfer to any other body or bodies (including any body or bodies corporate established under the order for the purpose) of any property, rights or liabilities, and any related functions, of a residuary body; and
- (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (2)(e) above and for the dissolution of a residuary body.

(4) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient.

23.—(1) The Secretary of State may by order establish one or more staff commissions for the purpose of—

Staff commissions.

- (a) considering and keeping under review the arrangements for the recruitment of staff by relevant authorities affected by orders under this Part and for the transfer, in consequence of the provisions of any such order, of staff employed by such authorities;
- (b) considering such staffing problems arising in consequence of such an order, and such other matters relating to staff employed by any such authority, as may be referred to the staff commission by the Secretary of State; and
- (c) advising the Secretary of State on the steps necessary to safeguard the interests of such staff;

and such a commission may be established either for the whole or for any part of England.

(2) The Secretary of State may give directions to a staff commission as to their procedure and to any relevant authority affected by an order under this Part with respect to—

- (a) the supply of any information requested and the implementation of any advice given by a staff commission; and
- (b) the payment by such an authority of any expenses incurred by a staff commission in doing anything requested by the authority.

(3) Any expenses incurred by a staff commission under this section and not recovered from a relevant authority shall be paid by the Secretary of State out of money provided by Parliament.

(4) The Secretary of State may by order provide for the winding up of any staff commission established under this section.

(5) In this section “relevant authority” means a local authority or a joint authority or residuary body established under section 21 or 22 above.

Supplemental provisions of Part II

24.—(1) The Local Government Boundary Commission for England (“the predecessor Commission”) shall cease to exist with the commencement of this section.

Abolition of the
Local Government
Boundary
Commission for
England.

PART II

(2) Any property, rights or liabilities to which the predecessor Commission was entitled or subject immediately before the commencement of this section shall become property, rights or liabilities of the Local Government Commission.

1978 c. 30.

(3) Without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals)—

- (a) where any report or proposals were submitted by the predecessor Commission to the Secretary of State under Part IV of the 1972 Act before the commencement of this section, the provisions of that Part, and of any regulations made under that Part, that cease to have effect for other purposes by virtue of this Act shall continue to have effect for the purpose of enabling effect to be given (with or without modifications) to those proposals and otherwise in relation to that report and those proposals; and
- (b) where the Local Government Commission undertakes a review under this Part of any area which was the subject of a review which was being conducted by the predecessor Commission at the commencement of this section, the Secretary of State may, by a direction to the Local Government Commission, dispense in relation to that review with such of the requirements of section 15 above as appear to him to be inappropriate in the light of any steps taken before the commencement of this section by the predecessor Commission.

(4) If, in the case of any member of the predecessor Commission who ceases to hold office by virtue of subsection (1) above, the Secretary of State determines that there are special circumstances which make it right that that member should receive compensation, he shall pay to that member a sum by way of compensation of such amount as he may determine.

(5) The approval of the Treasury is required for any determination of the Secretary of State under subsection (4) above; and the sums required by the Secretary of State for making any payment under that subsection shall be paid out of money provided by Parliament.

Application of Part II to the Isles of Scilly.

25. The Secretary of State may by order provide that, in their application in relation to the Isles of Scilly, the provisions of this Part shall have effect subject to such modifications as he considers appropriate.

Orders, regulations and directions under Part II.

26.—(1) The powers of the Secretary of State under this Part to make orders or regulations shall be exercisable by statutory instrument; and a statutory instrument containing any order or regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament unless—

- (a) it effects a structural change;
- (b) it establishes a joint authority for two or more local government areas; or
- (c) it effects only electoral changes or relates only to parishes.

(2) No order under this Part effecting a structural change or establishing a joint authority for two or more local government areas shall be made unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament; but an order

PART II

effecting such a change or establishing a joint authority shall, if apart from this subsection it would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.

(3) Every power of the Secretary of State under this Part to make orders or regulations, or to give directions, shall include power to make different provision for different cases, including different provision for different localities and for different bodies.

(4) Any power of the Secretary of State by order or regulations under this Part to make incidental, consequential, transitional or supplementary provision shall include power for any incidental, consequential, transitional or supplementary purposes—

- (a) to apply with or without modifications;
- (b) to extend, exclude or amend; or
- (c) to repeal or revoke with or without savings,

any enactment, any instrument made under any enactment or any charter, whenever granted.

(5) Any power of the Secretary of State under this Part to make by order or regulations provision for the transfer of any functions, property, rights or liabilities or to make transitional provision in connection with any such transfer or with the establishment of any body shall include, in particular, power to provide—

- (a) for legal proceedings commenced by or against any body to be continued by or against a body to whom functions, property, rights or liabilities are transferred;
- (b) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and
- (c) for treating any body to whom a transfer is made for some or all purposes as the same person in law as the body from whom the transfer is made.

(6) A direction under any provision of this Part may be varied or revoked by any subsequent direction under that provision; and where the Secretary of State is satisfied that—

- (a) a mistake has occurred in the preparation of an order under any provision of this Part; and
- (b) the mistake is such that it cannot be rectified by a subsequent order made under that provision by virtue of section 14 of the Interpretation Act 1978 (implied power to amend),

1978 c. 30.

he may by order under this subsection make such provision as he thinks necessary or expedient for rectifying the mistake.

(7) In this section—

“enactment” includes an enactment contained in a provision of this Act (other than a provision of this Part) or in any enactment contained in an Act passed after this Act; and

“mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by any public body.

PART II
Amendments
relating to local
government
changes.

27.—(1) Schedule 3 to this Act (which contains consequential amendments in connection with the provisions of this Part) shall have effect.

(2) In considering the electoral arrangements for any local government area for the purposes of this Part the Secretary of State and the Local Government Commission shall comply, so far as is reasonably practicable, with the rules set out in Schedule 11 to the 1972 Act (rules to be observed in considering electoral arrangements); and accordingly, in that Schedule, references to “either of the Commissions” shall have effect—

- (a) until the commencement of section 24 above, as including a reference to the Local Government Commission; and
- (b) thereafter, as if they were references to the Local Government Commission or the Local Government Boundary Commission for Wales.

(3) In subsection (2) above “electoral arrangements” has the meaning given by subsection (4) of section 14 above for the purposes of subsection (1)(c) of that section.

PART III

GENERAL

Interpretation.

1972 c. 70.

1973 c. 65.

1980 c. 65.

1982 c. 32.

1988 c. 9.

28.—(1) In this Act, except where the context otherwise requires—

“the 1972 Act” means the Local Government Act 1972;

“the 1973 Act” means the Local Government (Scotland) Act 1973;

“the 1980 Act” means the Local Government, Planning and Land Act 1980;

“the 1982 Act” means the Local Government Finance Act 1982;

“the 1988 Act” means the Local Government Act 1988;

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales;

“auditor” means any person who, within the meaning of Part III of the 1982 Act, is an auditor of the accounts of a body with which the Audit Commission is concerned;

“contravention” includes a failure to comply;

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

“local authority” means a principal council, the Common Council of the City of London, the sub-treasurer of the Inner Temple, the under treasurer of the Middle Temple or a parish council;

“local government area” means a principal area, and any of the following as for the time being constituted, that is to say, any metropolitan county, Greater London, the City of London, the Inner Temple, the Middle Temple or a parish;

“the Local Government Commission” means the Local Government Commission for England;

“modifications” includes additions, alterations and omissions;

“principal area” means any of the following as for the time being constituted, that is to say, a non-metropolitan county in England, a district in England or a London borough;

PART III

“principal council” means a council elected for a principal area;

“public body” includes any local authority, any joint authority or residuary body established under Part II of this Act and any other body which is a public body for the purposes of Part IV of the 1972 Act;

“the Scottish Accounts Commission” means the Commission for Local Authority Accounts in Scotland or, in relation to any time after the coming into force of paragraph 3 of Schedule 7 to the National Health Service and Community Care Act 1990, that Commission as re-named by that paragraph;

1990 c. 19.

“staff” includes officers and employees.

(2) References in this Act to a body with which the Audit Commission is concerned are references to any body any of whose accounts are required to be audited under Part III of the 1982 Act (including the Common Council of the City of London).

(3) References in this Act (however framed) to a body affected by any recommendations, changes or order under Part II of this Act include references to a body whose area or functions are so affected or to a body which is to cease to exist in pursuance of the recommendations, changes or order and, in relation to an order, include a body which is established under or in consequence of the order.

29.—(1) Part III of the 1982 Act and Part VII of the 1973 Act shall each have effect as if any functions under this Act of an auditor, of the Audit Commission, of the Controller of Audit or of the Scottish Accounts Commission were included in any references in that Part to the functions under that Part of an auditor, of the Controller of Audit or of the Commission in question.

Consequential amendment, repeals and saving.

(2) The enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) Without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals), the repeal by this Act of any provision contained in Part IV of the 1972 Act shall not affect the continuing validity, after the coming into force of that repeal, of any provision contained in any order made under that Part.

1978 c. 30.

30.—(1) This Act may be cited as the Local Government Act 1992.

Short title, commencement and extent.

(2) Sections 1 to 7 above and, in Part I of Schedule 4 to this Act, the repeal in the 1982 Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed.

(3) The following provisions of this Act, that is to say—

(a) sections 8 to 11, Schedule 1 and, in Part I of Schedule 4, the repeals in the 1980 Act and the 1988 Act; and

PART III

(b) section 24, Schedule 3 and Part II of Schedule 4,

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 appointed under this subsection for different provisions and for different purposes.

(4) The following provisions of this Act do not extend to Scotland, that is to say—

(a) sections 4 and 7;

(b) Part II, apart from the amendments contained in paragraphs 11 and 12 of Schedule 2 and in paragraphs 21 and 22 of Schedule 3; and

(c) Schedule 4, apart from so much of Part II as makes a repeal in the House of Commons Disqualification Act 1975.

1975 c. 24.

(5) Except for the purposes of—

(a) the amendments contained in paragraphs 11 and 12 of Schedule 2 and in paragraph 21 of Schedule 3; and

(b) so much of Part II of Schedule 4 as makes a repeal in the House of Commons Disqualification Act 1975,

this Act does not extend to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 11.

AMENDMENTS OF COMPETITION PROVISIONS

The Local Government, Planning and Land Act 1980 (c. 65)

1. In section 7(1B) of the 1980 Act (no failure to fulfil competition condition unless local authority are aware of failure when they propose to enter into contract), for the words from “unless” to “aware” there shall be substituted the words “unless the local authority have become aware, before entering into the contract.”.

2.—(1) In subsection (2) of section 9 of the 1980 Act (obligation to prepare written statement as to the amounts that will be credited to an authority’s DLO revenue account in respect of certain work), after the word “first” there shall be inserted the words “, in accordance with such requirements (if any) as may be contained in regulations made by the Secretary of State,”.

(2) In subsection (4)(a) of that section (obligation to invite offers to undertake work in accordance with specified conditions), for the words “conditions specified by them” there shall be substituted the words “a detailed specification prepared for the purposes of the invitation”.

(3) In subsection (6) of that section (statement under subsection (2) to be consistent with conditions specified for the purposes of subsection (4)(a)), for the words “conditions corresponding to those specified in” there shall be substituted the words “the requirements of the specification prepared for the purposes of”.

3. In section 13(2) of the 1980 Act (documents to be prepared by every local authority or development body who undertake construction or maintenance work), for paragraph (c) (statement of rate of return) there shall be substituted the following paragraph—

“(c) a statement showing whether the local authority or development body have complied with section 16(1) below.”

4.—(1) In subsection (1) of section 16 of the 1980 Act (obligation to secure that revenue from certain work shows such positive rate of return as the Secretary of State may direct), for the words from “their revenue” to the end of the subsection there shall be substituted the words “such financial objective as the Secretary of State may specify for that year is met by their revenue (as adjusted in such manner as he may so specify) for all the work of that description which is carried out in that year.”

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

“(1A) Where the Secretary of State specifies a financial objective under this section, he may define that objective by reference to such factors as he thinks fit.”

5. In section 18(2B) of the 1980 Act (auditor’s obligation to consider statement of rate of return), for the words “statement of rate of return” there shall be substituted the words “statement referred to in section 13(2)(c) above”.

6. In section 19A(1) of the 1980 Act (conditions of enforcement)—

(a) after the word “work”, in the first place where it occurs, there shall be inserted the words “, or have decided to do so, in a case in which the carrying out or undertaking of that work has been or (if effect is given to the proposals to which the decision relates) will be”; and

- SCH. 1 (b) in paragraph (a), for the words "they have entered into" there shall be substituted the words "into which that authority have entered".

7.—(1) In section 19B of the 1980 Act (power to give directions restricting a power to carry out work or imposing conditions with respect to the carrying out of work), after subsection (5) there shall be inserted the following subsection—

"(5A) The conditions that may be imposed by a direction given under this section in relation to the carrying out of any work include a condition restricting the carrying out of the work to cases where—

- (a) the Secretary of State has been satisfied as to any matter specified or described in the direction; or
- (b) the work is carried out under and in accordance with an authorisation or consent given for the purposes of the direction by the Secretary of State."

(2) In subsection (6) of that section (power to give direction to be exercised in writing), at the end there shall be inserted the words "and, without prejudice to subsection (4) above, shall include power, at any time, to make such variations of a direction under this section as may be agreed with the authority or body to which the direction relates."

8. In section 20(2) of the 1980 Act (exclusion from references to construction and maintenance work of routine maintenance of specific building etc. by person employed for the purpose), for the words from "employed" in paragraph (b) to the end of the subsection there shall be substituted the words "who—

- (i) is employed to perform duties in relation to that building or structure, or those buildings or structures; but
- (ii) spends the greater part of the time required for performing the duties of his employment in the carrying out of work which is neither routine maintenance nor work of any other description falling within the meaning, for the purposes of this Part of this Act, of construction or maintenance work."

9. In section 23(1) of the 1980 Act (power to make different provision for different parts of Great Britain), after the word "Act" there shall be inserted the words "and the power under section 16(1) above to specify a financial objective for local authorities and development bodies,".

The Local Government Act 1988 (c. 9)

10. In section 2(3) of the 1988 Act (power to add a paragraph to the list of defined activities), at the end there shall be inserted the words "or by modifying any provision of Schedule 1 to this Act which for the time being excludes anything from the activities falling within any of those paragraphs."

11. In subsection (6) of section 4 of the 1988 Act (no failure to fulfil conditions of entering into works contract unless bidding authority are aware of failure when they propose to enter into contract), for the words from "unless" to the end of the subsection there shall be substituted the words "unless the bidding authority have become aware of the failure before entering into the contract."

12. In section 6(3) of the 1988 Act (application confined to work specified in regulations), at the end there shall be inserted the words "and regulations under this section may describe work by reference to a specified proportion of work of a particular description."

13. In section 13(1) of the 1988 Act (conditions of enforcement), for paragraph (b) there shall be substituted the following paragraphs—

Sch. 1

- “(b) have carried out work as regards which the conditions set out in section 7 above have to be but, in the circumstances, have not been fulfilled,
- (ba) have decided to carry out work as regards which (if the work is carried out in accordance with the decision) those conditions will have to be but, in the circumstances in which it is proposed to carry it out, will not be fulfilled.”.

14. In section 14 of the 1988 Act (power to give directions restricting a power to carry out work or imposing conditions with respect to the carrying out of work), after subsection (4) there shall be inserted the following subsections—

“(4A) The conditions that may be imposed by a direction given under this section in relation to the carrying out of any work include a condition restricting the carrying out of the work to cases where—

- (a) the Secretary of State has been satisfied as to any matter specified or described in the direction, or
- (b) the work is carried out under and in accordance with an authorisation or consent given for the purposes of the direction by the Secretary of State.

(4B) Where a direction under this section imposes any condition in relation to the carrying out of any work, that direction may provide that the requirement that the condition is fulfilled is to have effect, in relation to that work, instead of any requirement which (apart from the direction) would have effect in relation to that work by virtue of this Part.

(4C) Without prejudice to subsection (3) above, the power to give a direction under this section shall include power, at any time, to make such variations of a direction under this section as may be agreed with the authority to which the direction relates.”

SCHEDULE 2

Section 12.

THE LOCAL GOVERNMENT COMMISSION FOR ENGLAND

Membership

1.—(1) The Local Government Commission (“the Commission”) shall consist of not less than five and not more than fifteen members who shall be appointed by the Secretary of State; and the Secretary of State shall appoint one of the members to be chairman.

(2) Subject to the provisions of this paragraph, a member of the Commission shall hold and vacate office in accordance with the terms of his appointment.

(3) A person who ceases to be a member of the Commission shall be eligible for re-appointment.

(4) A member of the Commission may resign his office by notice in writing to the Secretary of State.

(5) The Secretary of State may remove a member of the Commission from office if he is satisfied that he—

- (a) is unable or unfit to carry out the functions of a member; or
- (b) has not complied with the terms of his appointment.

- SCH. 2 (6) A person shall cease to be chairman of the Commission—
- (a) if he resigns as such by notice in writing to the Secretary of State; or
 - (b) if he ceases to be a member of the Commission.

Remuneration, pensions etc.

2.—(1) The Commission shall pay to its members such remuneration, and such allowances, as the Secretary of State may determine.

(2) The Commission may—

- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are its members as the Secretary of State may determine;
- (b) make such payments as the Secretary of State may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons.

(3) If, when any member of the Commission ceases to hold office, the Secretary of State determines that there are special circumstances which make it right that that member should receive compensation, the Commission shall pay to him a sum by way of compensation of such amount as the Secretary of State may determine.

(4) The approval of the Treasury is required for any determination of the Secretary of State under this paragraph.

Staff

3.—(1) The Commission shall appoint a person to act as chief executive of the Commission and may appoint such other staff as it may determine.

(2) No person shall be appointed by the Commission to act as chief executive unless the Secretary of State has consented to the appointment of that person.

(3) The terms and conditions of appointment of any person appointed under this paragraph shall be determined by the Commission with the consent of the Secretary of State.

(4) The Commission shall pay to members of its staff such remuneration, and such allowances, as the Secretary of State may determine.

(5) The Commission may—

- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are members of its staff as the Secretary of State may determine;
- (b) make such payments as the Secretary of State may determine towards provision for the payment of pensions, allowances or gratuities to or in respect of any such persons.

(6) Any reference in sub-paragraph (5) above to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes a reference to payments by way of compensation to or in respect of any members of the Commission's staff who suffer loss of office or employment or loss or diminution of emoluments.

(7) The approval of the Treasury shall be required for the giving of any consent under sub-paragraph (3) above or for the making of any determination under sub-paragraph (4) or (5) above.

Incidental powers

SCH. 2

4.—(1) Without prejudice to any powers exercisable apart from this paragraph, the Commission shall have power to do anything (whether or not involving the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the carrying out of any of its functions.

(2) The Commission shall not by virtue of this paragraph have power to borrow money or to cause any local inquiry to be held.

(3) Where the Commission requests a public body to supply the Commission with any information which the Commission reasonably requires in connection with any of its functions, it shall be the duty of that body to supply the Commission with that information.

(4) The Secretary of State may give directions as to the exercise by the Commission of any of its powers under this paragraph.

Proceedings

5.—(1) Subject to the following provisions of this Schedule, the Commission may regulate its own procedure (including quorum).

(2) The validity of any proceedings of the Commission shall not be affected by a vacancy amongst its members or by a defect in the appointment of a member, or by a contravention of paragraph 7 below.

(3) The Secretary of State may give directions as to the exercise by the Commission of its power under this paragraph to regulate its procedure.

Delegation of powers

6. Anything authorised or required by or under this Act to be done by the Commission may be done by any member of the Commission, or of its staff, who has been authorised for the purpose, whether generally or specially, by the Commission or may be done by any committee or sub-committee of the Commission which has been so authorised.

Members' interests

7. A member of the Commission who is directly or indirectly interested in any matter brought up for consideration at a meeting of the Commission shall disclose the nature of his interest to the meeting; and where such a disclosure is made the member shall not take part in any deliberation or decision of the Commission with respect to that matter.

Application of seal and proof of instruments

8.—(1) The application of the seal of the Commission shall be authenticated by the signature of any member of the Commission, or of its staff, who has been authorised by the Commission, whether generally or specially, for the purpose.

(2) Every document purporting to be an instrument issued by the Commission and to be duly sealed with the seal of the Commission or to be signed on behalf of the Commission shall be received in evidence and, unless the contrary is shown, shall be deemed to be an instrument so issued.

Finances of the Commission

9.—(1) The Secretary of State shall, in respect of each accounting year, pay to the Commission such amount as he may, with the approval of the Treasury, determine to be the amount required by the Commission for the carrying out during that year of its functions under this Act.

SCH. 2 (2) Any sums required by the Secretary of State for making a payment under sub-paragraph (1) above shall be paid out of money provided by Parliament.

(3) In this paragraph and paragraph 10 below "accounting year" means the period beginning with the day on which the Commission is established and ending with the financial year current on that date, and each successive financial year.

Accounts

10.—(1) The Commission shall—

- (a) keep proper accounts and records in relation to the accounts; and
- (b) prepare in respect of each accounting year a statement of accounts in such form as the Secretary of State, with the approval of the Treasury, may direct.

(2) The accounts of the Commission shall be audited by persons appointed for the purpose for each accounting year by the Secretary of State.

(3) A copy of any accounts of the Commission audited under sub-paragraph (2) above and of the report made on those accounts by the persons appointed to audit them shall be sent to the Secretary of State as soon as reasonably practicable after the report is received by the Commission; and the Secretary of State shall lay before Parliament a copy of any accounts or report sent to him under this sub-paragraph.

The Parliamentary Commissioner

1967 c. 13. 11. In the Parliamentary Commissioner Act 1967, in Schedule 2 (departments and authorities subject to investigation), there shall be inserted, at the appropriate place, the following entry—

"Local Government Commission for England."

House of Commons disqualification

1975 c. 24. 12. In Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified for membership of the House of Commons), in Part II there shall be inserted, at the appropriate place, the following entry—

"The Local Government Commission for England";

1975 c. 25. and the like insertion shall be made in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

Section 27.

SCHEDULE 3

AMENDMENTS CONSEQUENTIAL ON PART II

The Fire Services Act 1947 (c. 41)

1. In section 6 of the Fire Services Act 1947 (power of the Secretary of State to make combination schemes)—

- (a) in subsection (2), after the word "thereto" there shall be inserted the words "or subsection (2A) of this section applies"; and
- (b) after that subsection there shall be inserted the following subsection—

"(2A) If, in a case where the authorities to whom notice of a proposed scheme has been given under subsection (2) of this section do not assent thereto—

- SCH. 3
- (a) it appears to the Secretary of State that the proposed scheme contains only such provision as is appropriate in consequence of an order under Part II of the Local Government Act 1992 containing provision for giving effect to a structural change (within the meaning of that Part); and
 - (b) the period (if any) that has elapsed between the making of that order and the giving of that notice does not exceed twelve months,

the Secretary of State shall be under a duty to consider any representations made by those authorities with respect to the proposed scheme within such period as may have been specified in the notice, but shall not be required under that subsection to cause a public local inquiry to be held."

2. In section 10 of that Act (schemes for combination of fire areas in advance of alterations of local government areas)—

- (a) for the words from "constituting" to "a county" there shall be substituted the words "or Part II of the Local Government Act 1992 affecting any area";
- (b) for the words "that date" there shall be substituted the words "the date on which that order gives effect to any transfer of functions or alteration of boundaries in relation to that area"; and
- (c) for the words from "as if" onwards there shall be substituted the words "as if—
 - (a) references to the area of a fire authority included references to any area which (apart from any combination scheme under this section) would become such an area by virtue of such an order or which, in accordance with such an order, is to be treated, for the purposes of the making of any combination scheme, as an area which would become the area of a fire authority by virtue of that order; and
 - (b) references, in relation to such an area, to the fire authority were references to the fire authority for any area the whole or any part of which will be included in that area."

The Police Act 1964 (c. 48)

3.—(1) For paragraphs (a) and (b) of subsection (1) of section 23 of the Police Act 1964 there shall be substituted the words "with respect to any two or more prospective police areas".

(2) For subsection (1B) of that section there shall be substituted the following subsection—

"(1B) In this section—

'prospective police area' means any area which (apart from any amalgamation scheme) would become a police area by virtue of an order under Part II of the Local Government Act 1992 or Part IV of the Local Government Act 1972 or which, in accordance with such an order, is to be treated, for the purposes of the approval or making of any amalgamation scheme, as an area which would become a police area by virtue of that order; and

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'the relevant date', in relation to a prospective police area, means the date on which the order in question gives effect to structural or boundary changes affecting the area comprised in the prospective police area;

and in this subsection the reference to a structural or boundary change is a reference to any structural or boundary change within the meaning of Part II of that Act of 1992 or, in relation to an order under Part IV of that Act of 1972, to the constitution of a new county or the alteration of an existing county."

(3) In subsection (2) of that section (modifications for the purposes of an amalgamation scheme), for paragraphs (a) to (c) there shall be substituted the following paragraphs—

"(a) any reference to a police area shall include a reference to a prospective police area;

(b) any reference, in relation to a prospective police area, to a constituent authority shall be a reference to the police authority for any police area the whole or any part of which will be included in the prospective police area and the council of any county the whole or any part of which will be so included; and

(c) any reference, in relation to a prospective police area, to the police authority (except a reference to which paragraph (b) above applies) shall be a reference to any constituent authority (within the meaning of that paragraph) other than the council for a county for which there is a separate police authority."

(4) For subsection (3) of that section there shall be substituted the following subsection—

"(3) For the purposes of the approval or making of any amalgamation scheme with respect to any area, any steps required by this Act to be taken before an amalgamation scheme is approved or made may be taken at any time—

(a) after any report affecting that area, together with proposals or recommendations, has been submitted to the Secretary of State under Part II of the Local Government Act 1992 or Part IV of the Local Government Act 1972; and

(b) before an order is made to give effect to the proposals or recommendations,

if the Secretary of State has notified the general nature of the order he intends to make to give effect to the proposals or recommendations to every authority which for the purposes of sections 21 and 22 above (as modified by subsection (2) above) would be a constituent authority in relation to that scheme."

4. In paragraph 7 of Schedule 1 to that Act—

(a) in sub-paragraph (a), for the words for "of the new" to the end of the sub-paragraph there shall be substituted the words "for any relevant area, that is to say, any area which under the order in question is (within the meaning of section 23 of this Act) a prospective police area and to which the scheme is to apply; and

(b) in sub-paragraph (b), for the words from "each of the following" to the end of the sub-paragraph there shall be substituted the words "every council which is the council for a county the whole or any part of which is included in a relevant area."

5.—(1) In paragraph 3 of Schedule 3 to that Act (obligation to hold public inquiry before making amalgamation scheme if an objection is made), at the beginning there shall be inserted the words "Subject to paragraph 3A below".

(2) After that paragraph there shall be inserted the following paragraph— SCH. 3

“3A. If, in a case where a notice of objection with respect to any proposed scheme is received by the Secretary of State as mentioned in paragraph 3 above—

- (a) it appears to the Secretary of State that the proposed scheme contains only such provision as is appropriate in consequence of an order under Part II of the Local Government Act 1992 containing provision for giving effect to a structural change (within the meaning of that Part); and
- (b) the period (if any) that has elapsed between the making of that order and the giving of the notice which is required to be given under paragraph 1 above in relation to that scheme does not exceed twelve months,

the Secretary of State shall be under a duty to consider that objection but shall not be required to cause a local inquiry to be held in respect of it.”

The Local Government Act 1972 (c.70)

6. In section 6(2)(c) of the 1972 Act (term of office and retirement of councillors), for the words “Part IV of this Act” there shall be substituted the words “Part II of the Local Government Act 1992”.

7.—(1) In subsection (6) of section 7 of the 1972 Act (election of councillors), for the words “section 51 below” there shall be substituted the words “section 17 of the Local Government Act 1992”.

(2) In subsection (7) of that section—

- (a) for the words “ask the English Commission to make proposals” there shall be substituted the words “direct the Local Government Commission for England to conduct a review and make recommendations”; and

- (b) for the words following paragraph (b) there shall be substituted the words—

“and the provisions of Part II of the Local Government Act 1992 shall apply accordingly”.

8. In section 9(4) of the 1972 Act (parish meetings and councils), for the words “section 10 or 11 or Part IV below” there shall be substituted the words “section 10 or 11 below or Part II of the Local Government Act 1992”.

9. In section 11(5)(a) of the 1972 Act (orders for grouping parishes, dissolving groups and separating parishes from groups), for the words “Part IV below” there shall be substituted the words “Part II of the Local Government Act 1992”.

10. In subsection (2) of section 12 of the 1972 Act (provision supplementary to sections 9 to 11 of that Act), for the words from “section 68 below” to the end of the subsection there shall be substituted the words “section 20 of the Local Government Act 1992 shall apply as if the order were made under Part II of that Act”.

11. In section 30(1)(b) and (3) of the 1972 Act (restriction on community applications during and after reviews under Part IV of that Act), for the words “the Commission or Commissions”, in each place where they occur, there shall be substituted the words “the Welsh Commission”.

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12. In section 54(1)(e) of the 1972 Act (proposals for change in local government areas in Wales), for the words "a substantive change" there shall be substituted the words "a change (hereafter in this Part referred to as a substantive change) which is independent of any change in local government areas so proposed".

13.—(1) In subsection (1) of section 60 of the 1972 Act (procedure for reviews), for the words "A Commission or" there shall be substituted the words "The Welsh Commission or a".

(2) In subsections (2) to (7) of that section, for the words "a Commission", in each place where they occur, there shall be substituted the words "the Welsh Commission".

14. In section 61(1) of the 1972 Act (local inquiries), for the words "A Commission or" there shall be substituted the words "The Welsh Commission or a".

15.—(1) In subsection (1) of section 65 of the 1972 Act (delegation of functions), for the words "A Commission" there shall be substituted the words "The Welsh Commission".

(2) In subsection (2) of that section, for the words "a Commission" there shall be substituted the words "the Welsh Commission".

16.—(1) In subsection (1) of section 71 of the 1972 Act (modification of seaward boundaries of local government areas), for the words "A Commission" there shall be substituted the words "The Welsh Commission".

(2) In subsection (2) of that section, for the words "a Commission", in each place where they occur, there shall be substituted the words "the Welsh Commission".

17. In section 73(2) of the 1972 Act (alteration of local boundaries consequent on alteration of water course), for the words "the English Commission" there shall be substituted the words "the Local Government Commission for England".

18.—(1) In subsection (1) of section 78 of the 1972 Act (supplementary), in the definition of "substantive change" for the words "section 47(1)(i)" there shall be substituted the words "section 54(1)(e)".

(2) In subsection (2) of that section, for the words "each of the Commissions" there shall be substituted the words "the Welsh Commission".

19.—(1) In paragraph 7(1)(b) of Schedule 2 to the 1972 Act (constitution of London borough councils), for the words "Part IV of this Act" there shall be substituted the words "Part II of the Local Government Act 1992".

(2) In paragraph 7(2) of that Schedule, for the words "Part IV of this Act", in the first place where they occur, there shall be substituted the words "Part II of the Local Government Act 1992".

20. In paragraph 10 of Schedule 3 to the 1972 Act (establishment of local authorities in England), for the words "Part IV of this Act", in each place where they occur, there shall be substituted the words "Part II of the Local Government Act 1992".

The Interpretation Act 1978 (c. 30)

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21. In Schedule 1 to the Interpretation Act 1978, in the definition of "London borough" after the words "the Local Government Act 1972" there shall be inserted the words "or Part II of the Local Government Act 1992".

The Banking Act 1987 (c. 22)

22. In section 103(6)(b) of the Banking Act 1987 (effect of change of local government area on connection between local authority and municipal banks), for the words "or Part II" there shall be substituted the words "or Part II of the Local Government Act 1992 or under Part II".

SCHEDULE 4

Section 29.

REPEALS

PART I

REPEALS RELATING TO PART I

Chapter	Short title	Extent of repeal
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 13(6). In section 16, subsections (2) and (3). In section 19A(1)(f), the words "(1) to (3)".
1982 c. 32.	The Local Government Finance Act 1982.	In section 15(1), the word "and" immediately preceding paragraph (c).
1988 c. 9.	The Local Government Act 1988.	In section 7(3)(a), the word "periods".

PART II

REPEALS RELATING TO PART II

Chapter	Short title	Extent of repeal
1972 c. 70.	The Local Government Act 1972.	Sections 46 to 52. In section 60(2)(b), the words "50(4) or". Sections 62 and 63. Section 66. Section 196(7) and (8). In section 197(5), the words "and for the words" onwards. In section 270(1), the definitions of "the Commission" and "the English Commission". Schedule 7. Schedule 9.

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Chapter	Short title	Extent of repeal
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part II of Schedule 1, the entry relating to the Local Government Boundary Commission for England.
1985 c. 51.	The Local Government Act 1985.	In Schedule 16, paragraphs 4 to 6.

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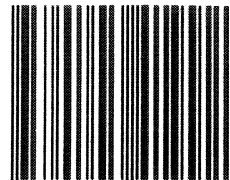
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