



Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

PART II

CONTRACTING OUT

Supplemental

77 Provisions with respect to orders.

- (1) An order under section 69 or 70 above—
 - (a) shall be made by statutory instrument;
 - (b) may contain provisions (including provisions modifying enactments) which are consequential upon, or supplemental or incidental to, the provisions made by the order which fall within subsection (2) of that section; and
 - (c) may contain such transitional provisions and savings as appear to the Minister by whom the order is made to be appropriate.
- (2) No order shall be made under section 69 or 70 above unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.

78 Extent of Part II.

- (1) The following provisions of this Part extend to Northern Ireland, namely—
 - (a) sections 69 and 74 above;
 - (b) the other provisions of this Part in so far as they relate to orders under section 69 or to functions of Ministers or office-holders; and
 - (c) paragraphs 4, 24 and 25 of Schedule 16.
- (2) In so far as they relate to functions under enactments relating to patents, registered designs or trade marks, the provisions of this Part also extend to the Isle of Man, subject to such exceptions and modifications as Her Majesty may specify by Order in Council.

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79 Interpretation of Part II.

(1) In this Part—

“employee”, in relation to a body corporate, includes any director or other officer of that body;

“enactment” does not include an enactment contained in Northern Ireland legislation but, subject to that, includes an enactment contained in an Act (whenever passed) and an enactment contained in subordinate legislation (whenever made);

“function”, in relation to a local authority, includes any power to do any thing which is calculated to facilitate, or is conducive or incidental to, the exercise of a function;

“joint board”—

(a) in relation to England and Wales, means a joint or special planning board constituted for a National Park by order under paragraph 1, 3 or 3A of Schedule 17 to ^{M1} the Local Government Act 1972, or a joint planning board within the meaning of section 2 of ^{M2} the Town and Country Planning Act 1990;

(b) in relation to Scotland, has the same meaning as in the Local ^{M3}Government (Scotland) Act 1973;

“joint committee”—

(a) in relation to England and Wales, means a joint committee appointed under section 102(1)(b) of the Local Government Act 1972;

(b) in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act 1973;

“local authority”—

(a) in relation to England, [^{F1} has the meaning given by section 79A;]

(b) in relation to Wales, [^{F2} has the meaning given by section 79B;]

(c) in relation to Scotland, has the same meaning as in the Local Government (Scotland) Act 1973;

“Minister” has the same meaning as Minister of the Crown has in the Ministers ^{M4}of the Crown Act 1975;

“Northern Ireland legislation” means—

(a) Northern Ireland legislation within the meaning of section 24 of ^{M5}the Interpretation Act 1978; and

(b) instruments, within the meaning of ^{M6} the Interpretation Act (Northern Ireland) 1954, made under such legislation;

“office-holder” does not include a Minister, an officer of either House of Parliament, [^{F3}the Auditor General for Wales,] the Parliamentary Commissioner for Administration, [^{F4} the Public Services Ombudsman for Wales]^{F5}...[^{F6}, the Health Service Commissioner for England ^{F7}... or the Scottish Public Services Ombudsman] but, subject to that, means—

(a) the holder of an office created or continued in existence by a public general Act of Parliament;

(b) the holder of an office the remuneration in respect of which is paid out of money provided by Parliament;

(c) [^{F8}the registrar of companies for England and Wales, Scotland or Northern Ireland; and]

(d) the registrar of approved driving instructors;

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“officer”—

- (a) in relation to a Minister, means any person in the civil service of the Crown who is serving in his department;
- (b) in relation to an office-holder, means any member of his staff, or any person in the civil service of the Crown who has been assigned or appointed to assist him in the exercise of his functions;

“the registrar of approved driving instructors” means the officer of the Secretary of State by whom the register of approved driving instructors established in pursuance of section 23 of ^{M7} the Road Traffic Act 1962 is compiled and maintained;

“subordinate legislation” has the same meaning as in the Interpretation ^{M8}Act 1978.

- (2) In relation to any time before 1st April 1996, subsection (1) above shall have effect as if, in paragraph (b) of the definition of “local authority”, for the words “county borough” there were substituted the word “ district ”.
- (3) Subject to subsection (4) below, this Part shall have effect as if—
 - [^{F9}(a) any reference to a Minister included a reference to the Forestry Commissioners or to the Charity Commission;]
 - [^{F9}(b) any reference to an officer in relation to the Charity Commission were a reference to a member or member of staff of the Commission; and.]
- (4) Nothing in subsection (3) above shall be construed as enabling those Commissioners [^{F10} or that Commission]^{F11}. . . to make an order under section 69 or 70 above ^{F11}. . .
- (5) Subject to subsection (6) below, any function of an examiner or other officer of the Patent Office which is conferred by or under any enactment shall be treated for all purposes of this Part as if it were a function of the Comptroller-General of Patents, Designs and Trade Marks.
- (6) In any case where by virtue of an order made under section 69 above a person is authorised by that Comptroller to exercise any such function as is mentioned in subsection (5) above, section 72(2) above shall have effect as if for paragraphs (a) and (b) there were substituted the words “ by or in relation to an examiner or other officer of the Patent Office in his capacity as such ”.

Textual Amendments

- F1** Words in s. 79(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 239\(2\)\(a\), 245\(5\)](#); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F2** Words in s. 79(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 239\(2\)\(b\), 245\(5\)](#); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F3** Words in the definition in s. 79(1) inserted (1.4.1999) by 1998 c. 38, s. 125, [Sch. 12 para. 36\(a\)](#) (with ss. 139(2), 143(2)); S.I. 1999/782, [art. 2](#)
- F4** Words in s. 79(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 55\(a\)](#); S.I. 2005/2800, art. 5(1)(3)
- F5** Words in s. 79(1) omitted (14.7.2004) by virtue of [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, **18**
- F6** Words in s. 79(1) substituted (14.7.2004) by [Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), arts. 1, **18**
- F7** Words in s. 79(1) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 6 para. 55\(b\), Sch. 7](#); S.I. 2005/2800, art. 5(1)(3)

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- F8** Words in s. 79(1) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 148(3)** (with art. 10)
- F9** S. 79(3)(a)(b) substituted for s. 79(3)(a) (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), **Sch. 8 para. 179(2)**; [S.I. 2007/309](#), art. 2
- F10** Words in s. 79(4) inserted (27.2.2007) by [Charities Act 2006 \(c. 50\)](#), s. 79(2), **Sch. 8 para. 179(3)**; [S.I. 2007/309](#), art. 2
- F11** Words in s. 79(4) repealed (15.11.2001) by [S.I. 2001/3686](#), **regs. 1(1), 6(11)(b)**

Modifications etc. (not altering text)

- C1** S. 79(1) extended (1.7.1999) by [S.I. 1999/1351](#), **arts. 1, 17(2)(f)** (with art. 8)

Marginal Citations

- M1** 1972 c.70.
M2 1990 c.8.
M3 1973 c.65.
M4 1975 c. 26.
M5 1978 c.30.
M6 1954 c.33 (N.I.).
M7 1962 c.59.
M8 1978 c.30.

[^{F12}79A “Local authority”: England

In this Part, “local authority” in relation to England means—

- (a) a county council;
- (b) a district council;
- (c) a London borough council;
- (d) the Greater London Authority acting through the Mayor of London;
- (e) the Common Council of the City of London;
- (f) the sub-treasurer of the Inner Temple;
- (g) the under treasurer of the Middle Temple;
- (h) the Council of the Isles of Scilly;
- (i) a parish council;
- (j) a National Park authority;
- (k) a functional body within the meaning of the Greater London Authority Act 1999;
- (l) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities);
- (m) a joint authority established by Part 4 of that Act (fire and rescue services and transport);
- [^{F13}(ma) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
- (mb) a combined authority established under section 103 of that Act;]
- [^{F14}(mc) a combined county authority established under section 9(1) of the Levelling-up and Regeneration Act 2023;]
- (n) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;

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- [a fire and rescue authority created by an order under section 4A of that Act;]
F15 (na)
F16 (o)
F17 (p)
(q) any body specified for the purposes of this paragraph by regulations under section 79C.

Textual Amendments

- F12** Ss. 79A-79C inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 239(3)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F13** S. 79A(ma)(mb) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009](#) (c. 20), s. 148(6), **Sch. 6 para. 87**; S.I. 2009/3318, art. 2(c)
- F14** S. 79A(mc) inserted (26.12.2023) by [Levelling-up and Regeneration Act 2023](#) (c. 55), s. 255(2)(c), **Sch. 4 para. 117** (with s. 247)
- F15** S. 79A(na) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017](#) (c. 3), s. 183(1)(5)(e), **Sch. 1 para. 75**; S.I. 2017/399, reg. 2, Sch. para. 38
- F16** S. 79A(o) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011](#) (c. 13), s. 157(1), **Sch. 16 para. 215**; S.I. 2012/2892, art. 2(i)
- F17** S. 79A(p) omitted (26.5.2015) by virtue of [Deregulation Act 2015](#) (c. 20), s. 115(7), **Sch. 13 para. 6(27)**; S.I. 2015/994, art. 6(g)

79B “Local authority”: Wales

In this Part, “local authority” in relation to Wales means—

- (a) a county council;
(b) a county borough council;
(c) a community council;
(d) a National Park authority;
[a corporate joint committee established by regulations under Part 5 of the
F18 (da) [Local Government and Elections \(Wales\) Act 2021](#);
(e) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the [Town and Country Planning Act 1990](#);
(f) a fire and rescue authority constituted by a scheme under section 2 of the [Fire and Rescue Services Act 2004](#) or a scheme to which section 4 of that Act applies;
F19 (g)
(h) any body specified for the purposes of this paragraph by regulations under section 79C.

Textual Amendments

- F12** Ss. 79A-79C inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 239(3)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F18** S. 79B(da) inserted (E.W.) (25.3.2022) by [The Corporate Joint Committees \(General\) \(Wales\) Regulations 2022](#) (S.I. 2022/372), regs. 1(2), **12(b)**
- F19** S. 79B(g) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011](#) (c. 13), s. 157(1), **Sch. 16 para. 216**; S.I. 2012/2892, art. 2(i)

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79C Regulations for the purposes of section 79A and 79B

- (1) The Secretary of State may by regulations made by statutory instrument specify for the purposes of section 79A(q) or 79B(h) any body which is (or any class of bodies each of which is)–
- (a) a levying body, within the meaning of section 74 of the Local Government Finance Act 1988;
 - (b) a body to which section 75 of that Act applies (bodies with power to issue special levies);
 - (c) a body to which section 118 of that Act applies (other bodies with levying powers);
 - (d) a local precepting authority as defined in section 69 of the Local Government Finance Act 1992.
- (2) Regulations under subsection (1)—
- (a) may provide for this Part to have effect, in relation to a body specified under that subsection, subject to exceptions or modifications;
 - (b) may contain transitional provisions and savings.
- (3) Any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F12 Ss. 79A-79C inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 239(3)**, 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

Modifications etc. (not altering text)

C2 S. 79C(1) functions transferred (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018](#) (S.I. 2018/644), arts. 1(1), **33(2)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 71(3)(ha) inserted by [2023 c. 55 Sch. 12 para. 4](#)