



# Local Government Act 2003

## 2003 CHAPTER 26

### PART 8

#### MISCELLANEOUS AND GENERAL

#### CHAPTER 1

#### MISCELLANEOUS

#### *Charging and trading*

### 93 Power to charge for discretionary services

- (1) Subject to the following provisions, a [<sup>F1</sup>relevant authority] may charge a person for providing a service to him if—
  - (a) the authority is authorised, but not required, by an enactment to provide the service to him, and
  - (b) he has agreed to its provision.
- (2) Subsection (1) does not apply if the authority—
  - (a) has power apart from this section to charge for the provision of the service, or
  - (b) is expressly prohibited from charging for the provision of the service.
- (3) The power under subsection (1) is subject to a duty to secure that, taking one financial year with another, the income from charges under that subsection does not exceed the costs of provision.
- (4) The duty under subsection (3) shall apply separately in relation to each kind of service.
- (5) Within the framework set by subsections (3) and (4), a [<sup>F2</sup>relevant authority] may set charges as it thinks fit and may, in particular—
  - (a) charge only some persons for providing a service;
  - (b) charge different persons different amounts for the provision of a service.

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- (6) In carrying out functions under this section, a [<sup>F3</sup>relevant authority] shall have regard to such guidance as the appropriate person may issue.
- (7) The following shall be disregarded for the purposes of subsection (2)(b)—
- (a) section 111(3) of the Local Government Act 1972 (c. 70) (subsidiary powers of local authorities not to include power to raise money),
  - (b) section 34(2) of the Greater London Authority Act 1999 (c. 29) (corresponding provision for Greater London Authority), <sup>F4</sup>...
  - [<sup>F5</sup>(c) section 3(2) of the Local Government Act 2000 (c. 22) (well-being powers not to include power to raise money).]
  - [<sup>F6</sup>(d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities [<sup>F7</sup>, combined authorities and combined county authorities]),
  - (e) section 102C(4) of that Act (Integrated Transport Authorities),
  - (f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), <sup>F8</sup>...
  - (g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities)] [<sup>F9</sup>, and
  - (h) section 50(4) of the Levelling-up and Regeneration Act 2023 (combined county authorities).]
- (8) In subsection (1), “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- [<sup>F10</sup>(9) In this section, “relevant authority” means—
- (a) a best value authority;
  - [<sup>F11</sup>(aa) a county council or county borough council in Wales;]
  - [<sup>F12</sup>(ab) the Passenger Transport Executive of an integrated transport area in England;]
  - [<sup>F13</sup>(ac) a National Park authority for a National Park in Wales;]
  - (b) a parish council;
  - (c) a parish meeting of a parish which does not have a separate parish council; or
  - (d) a community council.]

#### Textual Amendments

- F1** Words in s. 93(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 7 para. 3\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F2** Words in s. 93(5) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 7 para. 3\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F3** Words in s. 93(6) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 7 para. 3\(3\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F4** Word in s. 93(7)(b) repealed (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 25 Pt. 3](#); S.I. 2012/411, art. 2(g)
- F5** S. 93(7)(c) omitted (W.) (5.5.2022) by virtue of [Local Government and Elections \(Wales\) Act 2021 \(asc 1\)](#), s. 175(7), [Sch. 3 para. 12\(2\)](#); S.I. 2021/231, art. 6(r)
- F6** S. 93(7)(d)-(g) inserted (18.2.2012) by [Localism Act 2011 \(c. 20\)](#), [ss. 14\(2\)](#), 240(2); S.I. 2012/411, art. 2(e)

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- F7** Words in s. 93(7)(d) substituted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 152(a)** (with s. 247)
- F8** Word in s. 93(7)(f) omitted (26.12.2023) by virtue of Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 152(b)** (with s. 247)
- F9** S. 93(7)(h) and word inserted (26.12.2023) by Levelling-up and Regeneration Act 2023 (c. 55), s. 255(2)(c), **Sch. 4 para. 152(c)** (with s. 247)
- F10** S. 93(9) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(3)(b)**; S.I. 2008/917, art. 2(1)(a)
- F11** S. 93(9)(aa) substituted (20.3.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), **ss. 168(2)(a)**, 175(3)(t)
- F12** S. 93(9)(ab) inserted (18.2.2012) by Localism Act 2011 (c. 20), **ss. 12(4)**, 240(2); S.I. 2012/411, art. 2(e)
- F13** S. 93(9)(ac) inserted (20.3.2021) by Local Government and Elections (Wales) Act 2021 (asc 1), **ss. 168(2)(b)**, 175(3)(t)

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

- C1** S. 93(1) disappplied (23.12.2008) by Local Authorities (England) (Charges for Property Searches) (Disapplication) Order 2008 (S.I. 2008/2909), arts. 1(2), **3** (with art. 4)
- C2** S. 93(1) disappplied (3.3.2009) by Local Authorities (Charges for Property Searches) (Disapplication) (Wales) Order 2009 (No. 55), arts. 1(2), **3** (with art. 4)
- C3** S. 93(1) excluded (E.) (6.4.2015) by The Local Government (Prohibition of Charges at Household Waste Recycling Centres) (England) Order 2015 (S.I. 2015/619), arts. 1(2), **4** (with art. 5)

## 94 Power to disapply section 93(1)

- (1) The appropriate person may by order disapply section 93(1)—
- (a) in relation to particular descriptions of [<sup>F14</sup>relevant authority] or particular [<sup>F15</sup>relevant authorities];
- (b) in relation to the provision of a particular kind of service by—
- (i) all [<sup>F16</sup>relevant authorities],
- (ii) particular [<sup>F17</sup>relevant authorities], or
- (iii) particular descriptions of [<sup>F18</sup>relevant authority].

(2) The power under subsection (1) includes power to disapply for a particular period.

[<sup>F19</sup>(3) In this section, “relevant authority” has the meaning given in section 93.]

#### Textual Amendments

- F14** Words in s. 94(1)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(a)**; S.I. 2008/917, art. 2(1)(a)
- F15** Words in s. 94(1)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(b)**; S.I. 2008/917, art. 2(1)(a)
- F16** Words in s. 94(1)(b)(i) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(b)**; S.I. 2008/917, art. 2(1)(a)
- F17** Words in s. 94(1)(b)(ii) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(b)**; S.I. 2008/917, art. 2(1)(a)
- F18** Words in s. 94(1)(b)(iii) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(a)**; S.I. 2008/917, art. 2(1)(a)
- F19** S. 94(3) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(4)(c)**; S.I. 2008/917, art. 2(1)(a)

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## 95 Power to trade in function-related activities through a company

- (1) The appropriate person may by order—
  - (a) authorise [<sup>F20</sup>relevant authorities] to do for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions, and
  - (b) make provision about the persons in relation to whom authority under paragraph (a) is exercisable.
- (2) No order under this section may authorise a [<sup>F21</sup>relevant authority]—
  - (a) to do in relation to a person anything which it is required to do in relation to him under its ordinary functions, or
  - (b) to do in relation to a person anything which it is authorised, apart from this section, to do in relation to him for a commercial purpose.
- (3) An order under this section may be made in relation to—
  - (a) all [<sup>F22</sup>relevant authorities], particular [<sup>F22</sup>relevant authorities] or particular descriptions of [<sup>F23</sup>relevant authority];
  - (b) all things authorised to be done for the purpose of carrying on a particular function, particular things authorised to be done for that purpose or particular descriptions of thing authorised to be so done.
- (4) Power conferred by an order under this section shall only be exercisable through a company within the meaning of Part 5 of the Local Government and Housing Act 1989 (c. 42) (companies in which local authorities have interests).
- (5) A [<sup>F24</sup>relevant authority] on which power is conferred by an order under this section shall be treated as a local authority for the purposes of Part 5 of the Local Government and Housing Act 1989 if it would not otherwise be such an authority, but only in relation to a body corporate through which it exercises, or proposes to exercise, the power conferred by the order.
- (6) In its application by virtue of subsection (5), section 70(1) of the Local Government and Housing Act 1989 (c. 42) (power to make provision about what a company under the control, or subject to the influence of, a local authority does) shall only apply in relation to the doing for a commercial purpose of the thing to which the order under this section relates.
- (7) In this section—
 

<sup>F25</sup>.....

<sup>F26</sup>.....

[<sup>F27</sup>“relevant authority” means—

  - (a) a best value authority, other than [<sup>F28</sup>the Common Council of the City of London in its capacity as a police authority and]<sup>F29</sup> ... ;
  - (aa) [<sup>F30</sup>a county council or county borough council in Wales;]
  - (aaa) [<sup>F31</sup>a corporate joint committee established by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021;]
  - (ab) [<sup>F32</sup>the Passenger Transport Executive of an integrated transport area in England;]
  - (ac) [<sup>F33</sup>a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;]

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- (ad) [<sup>F34</sup>a fire and rescue authority in Wales, 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;]
  - (ae) [<sup>F34</sup>a National Park authority for a National Park in Wales;]
    - (b) a parish council;
    - (c) a parish meeting of a parish which does not have a separate parish council; or
    - (d) a community council.]
- “ordinary functions”, in relation to a [<sup>F35</sup>relevant authority], means functions of the authority which are not functions under this section.

#### Textual Amendments

- F20** Words in s. 95(1)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(a)**; S.I. 2008/917, art. 2(1)(a)
- F21** Words in s. 95(2) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(b)**; S.I. 2008/917, art. 2(1)(a)
- F22** Words in s. 95(3)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(a)**; S.I. 2008/917, art. 2(1)(a)
- F23** Words in s. 95(3)(a) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(b)**; S.I. 2008/917, art. 2(1)(a)
- F24** Words in s. 95(5) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(b)**; S.I. 2008/917, art. 2(1)(a)
- F25** Words in s. 95(7) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(c)**, **18 Pt. 8**; S.I. 2008/917, art. 2(1)(a)(i)(v)
- F26** Words in s. 95(7) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 320(a)**; S.I. 2012/2892, art. 2(i)
- F27** Words in s. 95(7) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(d)**; S.I. 2008/917, art. 2(1)(a)
- F28** Words in s. 95(7) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 320(b)**; S.I. 2012/2892, art. 2(i)
- F29** Words in s. 95(7) repealed (31.3.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 25 Pt. 32**; S.I. 2012/628, art. 4(d)
- F30** Words in s. 95(7) substituted (1.4.2021) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021 (S.I. 2021/296), regs. 1(2), **5(5)(a)**
- F31** Words in s. 95(7) inserted (25.3.2022) by The Corporate Joint Committees (General) (Wales) Regulations 2022 (S.I. 2022/372), regs. 1(2), **9**
- F32** Words in s. 95(7) inserted (18.2.2012) by Localism Act 2011 (c. 20), **ss. 12(5)**, 240(2); S.I. 2012/411, art. 2(e)
- F33** Words in s. 95(7) 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. 83(4)**; S.I. 2017/399, reg. 2, Sch. para. 38
- F34** Words in s. 95(7) inserted (1.4.2021) by The Local Government and Elections (Wales) Act 2021 (Consequential Amendments) Regulations 2021 (S.I. 2021/296), regs. 1(2), **5(5)(b)**
- F35** Words in s. 95(7) substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 7 para. 3(5)(b)**; S.I. 2008/917, art. 2(1)(a)

## 96 Regulation of trading powers

- (1) The appropriate person may by order impose conditions in relation to the exercise by a [<sup>F36</sup>relevant authority] of—

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- (a) a power to do anything for a commercial purpose, or
  - (b) a power to do anything for such a purpose through a company.
- (2) In exercising such a power as is mentioned in subsection (1), a [<sup>F37</sup>relevant authority] shall have regard to such guidance as the appropriate person may issue.
- (3) An order under this section may be made in relation to—
- (a) all [<sup>F38</sup>relevant authorities],
  - (b) particular [<sup>F39</sup>relevant authorities], or
  - (c) particular descriptions of [<sup>F40</sup>relevant authority].
- [<sup>F41</sup>(4) In this section, “relevant authority” has the meaning given in section 95.]
- (5) In subsection (1)(b), “company” has the same meaning as in Part 5 of the Local Government and Housing Act 1989.

#### Textual Amendments

- F36** Words in s. 96(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F37** Words in s. 96(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F38** Words in s. 96(3)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F39** Words in s. 96(3)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(b\)](#); S.I. 2008/917, art. 2(1)(a)
- F40** Words in s. 96(3)(c) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(a\)](#); S.I. 2008/917, art. 2(1)(a)
- F41** S. 96(4) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(5\), Sch. 7 para. 3\(6\)\(c\)](#); S.I. 2008/917, art. 2(1)(a)

## 97 Power to modify enactments in connection with charging or trading

- (1) If it appears to the [<sup>F42</sup>appropriate authority] that an enactment (whenever passed or made), other than section 93(2) or 95(2), prevents or obstructs [<sup>F43</sup>relevant authorities]—
- (a) charging by agreement for the provision of a discretionary service, or
  - (b) doing for a commercial purpose anything which they are authorised to do for the purpose of carrying on any of their ordinary functions,
- [<sup>F44</sup>the appropriate authority] may by order amend, repeal, revoke or disapply the enactment.
- (2) The [<sup>F45</sup>appropriate authority] may by order amend, repeal, revoke or disapply an enactment (whenever passed or made), other than section 93, which makes in relation to a [<sup>F46</sup>relevant authority] provision for, or in connection with, power to charge for the provision of a discretionary service.
- (3) The power under subsection (1) or (2) to amend or disapply an enactment includes power to amend or disapply an enactment for a particular period.
- (4) An order under this section may be made in relation to—
- (a) all [<sup>F47</sup>relevant authorities],

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- (b) particular [<sup>F48</sup>relevant authorities], or
  - (c) particular descriptions of [<sup>F49</sup>relevant authority].
- (5) An order under subsection (1)(b) may be made in relation to—
- (a) all things authorised to be done for the purpose of carrying on a particular function,
  - (b) particular things authorised to be done for that purpose, or
  - (c) particular descriptions of thing authorised to be so done.
- (6) An order under subsection (1)(b) may not be used to authorise a [<sup>F50</sup>relevant authority] to do in relation to a person anything which it is required to do in relation to him under its ordinary functions.
- <sup>F51</sup>(7A) .....
- <sup>F51</sup>(7B) .....
- <sup>F51</sup>(7C) .....
- <sup>F52</sup>(8) .....
- (9) Subject to subsection (10), no order shall be made [<sup>F53</sup>by the Secretary of State] under this section unless a draft of the statutory instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.
- (10) An order under this section which is made [<sup>F54</sup>by the Secretary of State] only for the purpose of amending an earlier order under this section—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
  - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- <sup>F55</sup>(10A) Subject to subsection (10B), no order may be made by the Welsh Ministers under this section unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (10B) An order under this section which is made by the Welsh Ministers only for the purpose mentioned in subsection (10) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.]
- (11) In this section—
- <sup>F56</sup>“the appropriate authority” means—
    - (a) in relation to England, the Secretary of State; and
    - (b) in relation to Wales, the Welsh Ministers;]
  - “discretionary service”, in relation to a [<sup>F57</sup>relevant authority], means a service which the authority is authorised, but not required, to provide;
  - “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));
  - “ordinary functions”, in relation to a [<sup>F57</sup>relevant authority], means functions of the authority which are not functions under section 95.
  - <sup>F58</sup>“relevant authority” means—
    - (a) in relation to England—



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- (i) a best value authority in England;
  - (ii) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;
  - (iii) a parish council; or
  - (iv) a parish meeting of a parish which does not have a separate parish council; and
- (b) <sup>[F59]</sup> in relation to Wales—
- (i) a county council or county borough council in Wales;
  - (ii) a community council;
  - (iii) a National Park authority for a National Park in Wales;
  - (iv) a fire and rescue authority in Wales, 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.]]

#### Textual Amendments

- F42** Words in s. 97(1) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(a)(i)**
- F43** Words in s. 97(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(a)
- F44** Words in s. 97(1) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(a)(ii)**
- F45** Words in s. 97(2) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(b)**
- F46** Words in s. 97(2) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F47** Words in s. 97(4)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(a)
- F48** Words in s. 97(4)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(a)**; S.I. 2008/917, art. 2(1)(a)
- F49** Words in s. 97(4)(c) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F50** Words in s. 97(6) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F51** S. 97(7A)-(7C) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(c)**
- F52** S. 97(8) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(c)**
- F53** Words in s. 97(9) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(d)**
- F54** Words in s. 97(10) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(e)**
- F55** S. 97(10A)(10B) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(f)**
- F56** Words in s. 97(11) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(g)(i)**
- F57** Words in s. 97(11) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(7)(b)**; S.I. 2008/917, art. 2(1)(a)
- F58** Words in s. 97(11) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(2)(g)(ii)**



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**F59** Words in s. 97(11) substituted (1.4.2021) by [The Local Government and Elections \(Wales\) Act 2021 \(Consequential Amendments\) Regulations 2021 \(S.I. 2021/296\)](#), regs. 1(2), **5(6)**

**98 Procedure for orders under section 97<sup>F60</sup>: England]**

- (1) Before making an order under section 97, the Secretary of State shall consult—
  - (a) such <sup>F61</sup>[“relevant authorities”] as appear to him to be likely to be affected by his proposals, and
  - (b) such other persons as appear to him to be representative of interests likely to be so affected.
- (2) If following consultation under subsection (1) <sup>F62</sup>..., the Secretary of State proposes to make an order under <sup>F63</sup>[“section 97”], he shall lay before each House of Parliament a document which—
  - (a) explains his proposals,
  - (b) sets them out in the form of a draft order, <sup>F64</sup>[“and”]
  - (c) gives details of consultation under subsection (1), <sup>F65</sup>...
  - <sup>F66</sup>(d) .....
- (3) Where a document relating to proposals is laid before Parliament under subsection (2), no draft of an order under section 97 to give effect to the proposals (with or without modification) shall be laid before Parliament until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (4) In calculating the period mentioned in subsection (3), no account shall be taken of any time during which —
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House is adjourned for more than four days.
- (5) In preparing a draft order under section 97 the Secretary of State shall consider any representations made during the period mentioned in subsection (3).
- (6) A draft order laid before Parliament in accordance with section 97(9) must be accompanied by a statement of the Secretary of State giving details of—
  - (a) any representations considered in accordance with subsection (5), and
  - (b) any changes made to the proposals contained in the document laid before Parliament under subsection (2).
- (7) Nothing in this section applies to an order under section 97 which is made only for the purpose mentioned in section 97(10).

<sup>F67</sup>(8) In this section, “relevant authority” has the meaning given in section 97.]

**Textual Amendments**

- F60** Word in s. 98 heading inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(a)**
- F61** Words in s. 98(1)(a) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), **Sch. 7 para. 3(8)(a)**; S.I. 2008/917, art. 2(1)(a)
- F62** Words in s. 98(2) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(3)(b)(i)**

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- F63** Words in s. 98(2) substituted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [40\(3\)\(b\)\(ii\)](#)
- F64** Word in s. 98(2)(b) inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [40\(3\)\(b\)\(iii\)](#)
- F65** Word in s. 98(2)(c) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [40\(3\)\(b\)\(iv\)](#)
- F66** S. 98(2)(d) omitted (24.5.2018) by virtue of [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [40\(3\)\(b\)\(v\)](#)
- F67** S. 98(8) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 7 para. 3\(8\)\(b\)](#); [S.I. 2008/917](#), art. 2(1)(a)

### [<sup>F68</sup>98A. Procedure for orders under section 97: Wales

- (1) Before making an order under section 97, the Welsh Ministers must consult—
  - (a) such relevant authorities as appear to them to be likely to be affected by their proposals, and
  - (b) such other persons as appear to them to be representative of interests likely to be so affected.
- (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 97, they must lay before the National Assembly for Wales a document which—
  - (a) explains their proposals,
  - (b) sets them out in the form of a draft order, and
  - (c) gives details of the consultation under subsection (1).
- (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 97 to give effect to the proposals (with or without modification) may be laid before the Assembly until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.
- (5) In preparing a draft order under section 97 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).
- (6) A draft order laid before the National Assembly for Wales in accordance with section 97(10A) must be accompanied by a statement of the Welsh Ministers giving details of—
  - (a) any representations considered in accordance with subsection (5), and
  - (b) any changes made to the proposals contained in the document laid before the Assembly under subsection (2).
- (7) Nothing in this section applies to an order under section 97 which is made only for the purpose mentioned in section 97(10B).
- (8) In this section, “relevant authority” has the meaning given in section 97.]

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### Textual Amendments

**F68** S. 98A inserted (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), **40(4)**

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

- Act applied (with modifications) by [S.I. 2024/414 art. 5Sch. 1 para. 13](#)

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

- s. 18(2A) inserted by [2007 c. 28 Sch. 14 para. 5\(2\)\(b\)](#)
- s. 24(1) s. 24 renumbered as s. 24(1) by [2007 c. 28 Sch. 14 para. 5\(3\)](#)
- s. 24(2) inserted by [2007 c. 28 Sch. 14 para. 5\(3\)](#)