



Local Government Act 2003

2003 CHAPTER 26

PART 8

MISCELLANEOUS AND GENERAL

CHAPTER 1

MISCELLANEOUS

Charging and trading

97 Power to modify enactments in connection with charging or trading

- (1) If it appears to the [^{F1}appropriate authority] that an enactment (whenever passed or made), other than section 93(2) or 95(2), prevents or obstructs [^{F2}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,
- [^{F3}the appropriate authority] may by order amend, repeal, revoke or disapply the enactment.
- (2) The [^{F4}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 [^{F5}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 [^{F6}relevant authorities],
 - (b) particular [^{F7}relevant authorities], or

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- (c) particular descriptions of [^{F8}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 [^{F9}relevant authority] to do in relation to a person anything which it is required to do in relation to him under its ordinary functions.
- ^{F10}(7A)
- ^{F10}(7B)
- ^{F10}(7C)
- ^{F11}(8)
- (9) Subject to subsection (10), no order shall be made [^{F12}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 [^{F13}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.
- ^{F14}(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—
- ^{F15}“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 [^{F16}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 [^{F16}relevant authority], means functions of the authority which are not functions under section 95.
- ^{F17}“relevant authority” means—
- (a) in relation to England—
 - (i) a best value authority in England;

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- (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) ^{F18}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

- F1** 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)**
- F2** 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)
- F3** 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)**
- F4** 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)**
- F5** 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)
- F6** 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)
- F7** 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)
- F8** 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)
- F9** 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)
- F10** 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)**
- F11** 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)**
- F12** 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)**
- F13** 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)**
- F14** 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)**
- F15** 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)**
- F16** 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)
- F17** 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)**
- F18** 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)**

Changes to legislation:

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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\(3\)](#)