



# Local Government (Miscellaneous Provisions) Act 1976

## 1976 CHAPTER 57

### PART I

#### GENERAL

##### *Miscellaneous*

#### **32 Power of local authorities to execute works outside their areas**

Any power to execute works which is conferred on a local authority by any enactment may, unless the contrary intention appears in that or any other enactment, be exercised outside as well as inside the area of the authority.

#### **33 Restoration or continuation of supply of water, gas or electricity**

(1) If any premises in the area of a district council, a London borough council or the Common Council are occupied as a dwelling and the supply of water, gas or electricity to the premises—

- (a) is cut off in consequence of the failure of the owner or former owner of the premises to pay a sum payable by him in connection with the supply; or
- (b) is in the opinion of the council likely to be cut off in consequence of such a failure,

the council may, at the request in writing of the occupier of the premises, make such arrangements as it thinks fit with the undertakers who provided the supply for it to be restored to the premises or, as the case may be, for it to be continued to the premises.

(2) Where under arrangements made in pursuance of the preceding subsection in respect of any premises a council makes a payment in respect of a sum which, at the time when the relevant supply to the premises was or became likely to be cut off as mentioned in that subsection, a person was liable to pay in connection with the supply to the undertakers who provided it, the council shall be entitled to demand and recover from

that person a sum equal to the payment; and where under such arrangements a council makes a payment in respect of the restoration of a supply to any premises or a payment for a supply to any premises, the council shall be entitled to demand and recover from the owner of the premises a sum equal to the payment reduced by any amount received by the council in pursuance of subsection (4) of this section in respect of the payment.

- (3) A council by which a sum is recoverable from a person in pursuance of the preceding subsection shall also be entitled to recover from him interest on the sum, from the date of service of the demand for the sum, at the rate fixed by section 171(2) of the Local Government Act 1972; and such a demand must—
- (a) be served on the recipient in writing ; and
  - (b) give particulars of the payment to which the sum demanded relates; and
  - (c) in the case of a demand for a sum on which interest is payable by virtue of this subsection, state the rate of the interest and that interest is payable from the date aforesaid.
- (4) Where by virtue Of the preceding provisions of this section a council is entitled to recover from the owner of any premises a sum on account of a payment in respect of the restoration or continuation of a supply to the premises or a payment for a supply to the premises or interest on such a sum and—
- (a) the owner of the premises is, under the terms on which a person occupies the premises, required to pay for a supply of the kind to which that sum relates; and
  - (b) the council has served a notice on that person requiring him to pay to the council, instead of to the owner of the premises, the rent for the premises which apart from this subsection is or becomes payable by him to the owner of the premises,
- it shall be the duty of that person to comply with the notice except so far as the council directs otherwise and the council may accordingly recover from him from time to time sums equal to the rent in question.
- (5) In this section " the owner ", in relation to any premises, means a person who apart from the preceding subsection is entitled on his own behalf or as a trustee or agent for another person to rent for the premises from the occupier of the premises and "former owner", in relation to any premises, means a person who was so entitled to rent for the premises from the occupier or former occupier of the premises.

### **34 Access for removal, and storage before removal, of refuse etc from buildings**

- (1) In subsection (1) of section 55 of the Public Health Act 1936 (which among other things requires certain local authorities to reject plans for the erection or extension of a house which are deposited with them in accordance with building regulations unless it is shown that satisfactory means of access from the house to a street for the removal of refuse and faecal matter are to be provided), for the word " house " in both places there shall be substituted the word " building ", for the words " faecal matter " there shall be substituted the words " satisfactory means of storing refuse for removal " and after the words " any means of access " there shall be inserted the words " or of storing refuse ".
- (2) In subsection (2) of the said section 55 (which among other things provides that a person who obstructs the means of access by which refuse is removed from a house shall be liable to a fine not exceeding £5 and a further fine not exceeding £2 for each day on which the obstruction continues), for the word " house " there shall be

substituted the word " building " and for the words from " five pounds " onwards there shall be substituted the word " £200 ".

- (3) For the purposes of subsection (5) of section 62 of the Health and Safety at Work etc. Act 1974 (which provides that building regulations may repeal or modify the enactments to which that subsection applies) the provisions of this section shall be included among those enactments.

### **35 Removal of obstructions from private sewers**

- (1) If a private sewer is obstructed at a point within the area of a local authority (other than a county council and the Greater London Council), the authority may serve on each of the persons who is an owner or occupier of premises served by the sewer, or on each of such of those persons as the authority thinks fit, a notice requiring the recipients of notices in pursuance of this subsection in respect of the obstruction to remove it before a time specified in the notice; and that time shall not be earlier than forty-eight hours after the service of the notice or, if different notices in respect of the same obstruction are served in pursuance of this subsection at different times, shall not be earlier than forty-eight hours after the latest of those times.
- (2) If an obstruction in respect of which notices have been served by an authority in pursuance of the preceding subsection is not removed within the period specified in the notices, the authority may remove it.
- (3) Where an authority has reasonably incurred expenses in removing an obstruction in pursuance of the preceding subsection, the authority may serve on each of the persons on whom it served notice in pursuance of subsection (1) of this section in respect of the obstruction a further notice—
- (a) requiring him to pay to the authority a sum equal to so much of the expenses as is specified in the further notice; and
  - (b) specifying the other persons on whom notices in pursuance of this subsection have been or are to be served in respect of the expenses and the amount specified or to be specified in each of those notices ;
- and it shall be the duty of the authority, in determining what amounts to specify in notices to be served by the authority in pursuance of this subsection in respect of any expenses, to have regard to any matters which appear to the authority to indicate the cause of the obstruction and, so far as the authority are aware of the obligations, to any obligations to remove the obstruction which arose under agreements between persons on whom the notices are to be served.
- (4) A person on whom a notice is served in pursuance of the preceding subsection may, within the period of six weeks beginning with the date of service of the notice, appeal to the county court against the notice on the ground that it would be reasonable for the whole or part of the sum specified in the notice to be paid by some other person who is an owner or occupier of premises served by the sewer in question.
- (5) On an appeal in pursuance of the preceding subsection against a notice the court shall either dismiss the appeal or order that the whole or part of the sum specified in the notice shall be paid to the authority which served the notice by—
- (a) a person, other than the appellant, who is an owner or occupier of premises served by the sewer in question; or
  - (b) persons, other than the appellant, each of whom is such an owner or occupier, in such proportions as are specified in the order,

and that the sum specified in the notice shall be reduced accordingly ; but the court shall not order any payment by a person other than the appellant unless that person has, not later than the beginning of the period of eight days ending with that on which the hearing of the appeal is begun, been made a respondent to the appeal in accordance with rules of court.

- (6) Where a local authority has served a notice on a person in pursuance of subsection (3) of this section, then—
- (a) if the person has not appealed against the notice in pursuance of subsection (4) of this section within the period specified in that subsection, the authority shall be entitled after the expiration of that period to recover from him the sum specified in the notice; and
  - (b) if he has so appealed within that period and the court has not reduced to nil the sum specified in the notice, the authority shall be entitled after the determination of the appeal to recover from him the sum specified in the notice or, if the court has reduced that sum to a smaller sum, the smaller sum.
- (7) Expressions used in this section and in Part II of the Public Health Act 1936 have the same meanings in this section as in that Part; and sections 287 and 288 of that Act (which confer power to enter premises and penalise obstruction) shall have effect as if references to that Act included references to this section.

### **36 Power of local authorities to appoint times and charges for markets**

- (1) Any provision of a local Act which confers power on a local authority to make byelaws appointing days on which or the hours during which markets or fairs are to be or may be held shall be construed as conferring on the authority a power to appoint such days or hours by resolution.
- (2) A local authority which maintains a market in pursuance of a local Act may, notwithstanding anything in any enactment relating to the market, make in connection with the market such charges as the authority determines from time to time.

### **37 Control of parking on areas used for loading or unloading goods vehicles**

- (1) If it appears to a county council or the Greater London Council that any land in its area which is not part of a highway has been set apart by the occupier of the land for use as a place where vehicles may be driven and parked for the purpose of being loaded or unloaded in connection with a trade or business carried on on or in the vicinity of the land, the council may, by an order made with the consent of the owner and the occupier of the land—
  - (a) designate the land as an area to which the following provisions of this section apply (hereafter in this section referred to as a "loading area"); and
  - (b) specify the trade or business in question.
- (2) A council which has made an order in pursuance of the preceding subsection—
  - (a) may vary the order by a subsequent order made with the consent of the owner and the occupier of the land to which the subsequent order relates ; and
  - (b) may revoke the order by a subsequent order made with the consent of the owner and the occupier of the loading area in question; and
  - (c) shall revoke the order by a subsequent order if requested in writing to do so by the owner and occupier of the loading area in question.

- (3) An order in pursuance of subsection (1) or (2)(a) of this section may contain provisions prohibiting the parking in the loading area to which the order relates of vehicles of such kinds as are specified in the order, except authorised vehicles, at all times or at times so specified and may make different provision in pursuance of the preceding provisions of this subsection for different parts of the area; and in this subsection " authorised vehicle ", in relation to a loading area, means a goods vehicle as defined by section 196(1) of the Road Traffic Act 1972 which is in the area for the purpose of being loaded or unloaded in connection with the trade or business specified in the order designating the area.
- (4) Section 84C(1) to (4) and (6) of the Road Traffic Regulation Act 1967 (which relate to the procedure for making orders under the provisions of that Act which are specified in subsection (1) of that section) shall have effect as if subsections (1) and (2) of this section were included among those provisions; and a person authorised in that behalf by a council by which an order has been made in pursuance of subsection (1) of this section may enter on the loading area to which the order relates for the purpose of placing any traffic signs which are required to be placed there by virtue of subsection (3)(e) of that section and for the purpose of maintaining or removing the signs.
- (5) A person who, without reasonable excuse, causes a vehicle to be in any part of a loading area at a time when the parking of it there is prohibited by an order made in pursuance of subsection (1) of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (6) Section 85(2) and (3) and section 90 of the said Act of 1967 (which provide for the giving of information to identify drivers of vehicles who are alleged to have committed offences to which the said section 85 applies and for the admission of certain written evidence in proceedings for such offences) shall have effect as if an offence under the preceding subsection were an offence to which the said section 85 applies and, in relation to an offence under the preceding subsection, as if in the said section 85(2) the words from " and in relation " onwards were omitted and for sub-paragraphs (i) and (ii) of paragraph (a) there were substituted the words " by a notice in writing given to him by a local authority (as defined by section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976) in whose area the loading area in question is situated ".
- (7) The Secretary of State may, by regulations made by statutory instrument, provide that sections 20, 52 and 53 of the said Act of 1967 (which among other things provide for the removal, storage and disposal of vehicles left on roads in contravention of a statutory prohibition) shall have effect, in relation to any vehicle which is or was in any part of a loading area while the parking of it in that part is or was prohibited by virtue of this section, with such additions, omissions and amendments as are prescribed by the regulations; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) References in the preceding provisions of this section to an order in pursuance of subsection (1) of this section include, in the case of such an order which has been varied in pursuance of subsection (2)(a) of this section, references to the order as so varied.

### **38 Use of spare capacity of computers of local authorities**

- (1) If a local authority—

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*Status: This is the original version (as it was originally enacted).*

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- (a) has provided a computer for the purpose of enabling the authority to perform any of its functions other than functions under this section; and
- (b) considers that the computer can, without detriment to its use for that purpose, be used for the benefit of the authority in pursuance of the following provisions of this section,

the authority may enter into agreements with other persons for the provision by the authority of facilities for using the computer or of services provided by means of the computer.

- (2) An agreement in pursuance of this section may contain such terms as to payment or otherwise as the parties consider appropriate; and it shall be the duty of a local authority, in settling the terms of such an agreement, to ensure that they are terms on which the authority considers that a person other than a local authority could reasonably be expected to provide the facilities or services in question.
- (3) In this section " computer " means any device for storing and processing information.

### **39 Protection of members and officers etc of local authorities from personal liability**

- (1) Section 265 of the Public Health Act 1875 (which relates to the protection from personal liability of members and officers of certain authorities) shall have effect as amended by section 27(2) of this Act as if any reference to those authorities and the first reference to that Act included respectively a reference to a local authority and to any other public general Act and any local Act and as if the reference to the general purposes of that Act included a reference to the purposes of the other public general Act or the local Act in question.
- (2) A person who is appointed as a member of a committee of a local authority or a joint committee of two or more local authorities by virtue of subsection (3) or (4) of section 102 of the Local Government Act 1972 (which authorises among other things the appointment to such a committee of a person who is not a member of a relevant authority) shall, if he is not a member of the authority which appointed him, be treated as such a member for the purposes of the said section 265 as modified by the preceding subsection.

### **40 Local authorities not affected by trusts attaching to certain securities issued by them**

- (1) Where a local authority maintains in pursuance of any enactment a register of persons entitled to instruments which have been issued as evidence of or as security for any loan made to the authority, the officer who keeps the register on behalf of the authority (hereafter in this section referred to as " the registrar ") may if he thinks fit enter in the register as the description of a person so entitled a description specified by that person which may be a description of him as a trustee of a particular trust or a trustee without specifying a trust or any other description indicating the capacity in which he is entitled to such an instrument.
- (2) Where a person entitled to such an instrument holds an office or official position, the registrar may if he thinks fit, at the request of that person either before or after his name is entered in the register in connection with the instrument, enter in the register, instead of the person's name, a description of him as the holder of the office or position; and where such a description is entered in the register any transfer of an instrument to which the description relates may be executed by, and any payment of interest or

repayment of principal in connection with such an instrument may be made to, the holder for the time being of the office or position.

- (3) No notice of any trust shall be entered in the register or given to the registrar except as authorised by the preceding provisions of this section; and, notwithstanding anything in the terms of an entry in the register, neither the authority which maintains it nor the registrar shall be affected by notice of any trust relating to an instrument issued as aforesaid nor required to enquire about the propriety of anything done in connection with such an instrument.
- (4) References to a register in the preceding provisions of this section do not include a register maintained in pursuance of regulations made by virtue of paragraph 4 of Schedule 13 to the Local Government Act 1972 (which relates to certain mortgages, stocks and bonds).

#### **41 Evidence of resolutions and minutes of proceedings etc.**

- (1) A document which—
  - (a) purports to be a copy of—
    - (i) a resolution, order or report of a local authority or a precursor of a local authority, or
    - (ii) the minutes of the proceedings at a meeting of a local authority or a precursor of a local authority; and
  - (b) bears a certificate purporting to be signed by the proper officer of the authority or a person authorised in that behalf by him or the authority and stating that the resolution was passed or the order or report was made by the authority or precursor on a date specified in the certificate or, as the case may be, that the minutes were signed in accordance with paragraph 41 of Schedule 12 to the Local Government Act 1972 or the corresponding provision specified in the certificate of the enactments relating to local government which were in force when the minutes were signed,shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution, order, report or minutes in question.
- (2) In the preceding subsection references to a local authority, except the first and second references in paragraph (b), include references to a committee of a local authority and a subcommittee of such a committee and references to a precursor of a local authority include references to a committee of such a precursor and a sub-committee of such a committee.
- (3) A document which—
  - (a) purports to be a copy of an instrument by which the proper officer of a local authority appointed a person to be an officer of the authority or authorised a person to perform functions specified in the instrument; and
  - (b) bears a certificate purporting to be signed as mentioned in subsection (1)(b) of this section and stating that the document is a copy of the instrument in question,shall be evidence in any proceedings of the fact that the instrument was made by the said proper officer and of the terms of the instrument.
- (4) In the preceding provisions of this section " precursor ", in relation to a local authority, means any authority which has ceased to exist but which when it existed was

constituted, in pursuance of the enactments relating to local government which were then in force, for an area any part of which is included in the area of the local authority.

**42 Certain future local Acts etc to be subject to the planning enactments etc except as otherwise provided**

- (1) An Act or order to which this section applies shall have effect subject to—
- (a) the provisions of the enactments relating to town and country planning;
  - (b) the provisions of the enactments relating to historic buildings and ancient monuments ;
  - (c) section 9 of the Harbours Act 1964 (which relates to the control of harbour development) and any order in force by virtue of that section ; and
  - (d) section 1(1) of the Dumping at Sea Act 1974 (which imposes restrictions on dumping in the sea),

except so far as the Act or order expressly provides otherwise.

- (2) This section applies to an Act or order which is—
- (a) a local Act passed after or in the same Session as this Act;
  - (b) a provisional order confirmed by an Act so passed; or
  - (c) an order which is made in the exercise of powers conferred by an Act and comes into force after the passing of this Act or in the same Session as this Act,
- and which authorises the carrying out on land specified in the Act or order of works of a kind so specified.

**43 Enforceability by joint planning boards etc of certain covenants**

In section 126 of the Housing Act 1974 (which provides for the enforcement of certain covenants in agreements which relate to the development of land and to which a principal council is a party), in subsection (7) (which specifies the authorities which are principal councils for the purposes of that section) after the words " London borough" there shall be inserted the words " , a board constituted in pursuance of section 1 of the Town and Country Planning Act 1971 or reconstituted in pursuance of Schedule 17 to the Local Government Act 1972 " and at the end of that subsection there shall be inserted the words " and in this section ' area' in relation to such a board means the district for which the board is constituted or reconstituted " ; and accordingly—

- (a) at the end of subsection (5) (of which paragraph (a), which is superseded by section 16 of this Act, enabled councils to obtain information about the ownership of premises for the purposes of their functions under the said section 126) there shall be inserted the words " and section 16 of the Local Government (Miscellaneous Provisions) Act 1976 shall have effect as if references to a local authority and to functions conferred on a local authority by any enactment included respectively references to such a board as is mentioned in subsection (7) of this section and to functions of such a board under this section " ; and
- (b) at the end of subsection (6) (which relates to the service of documents in pursuance of the said section 126 by the Common Council) there shall be inserted the words " and such a board as is mentioned in the following subsection".