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# Local Government Act 1988

## 1988 CHAPTER 9

**E+W+S**

An Act to secure that local and other public authorities undertake certain activities only if they can do so competitively; to regulate certain functions of local and other public authorities in connection with public supply or works contracts; to authorise and regulate the provision of financial assistance by local authorities for certain housing purposes; to prohibit the promotion of homosexuality by local authorities; to make provision about local authorities' publicity, local government administration, the powers of auditors, land held by public bodies, direct labour organisations, arrangements under the Employment and Training Act 1973, the Commission for Local Authority Accounts in Scotland, the auditing of accounts of local authorities in Scotland, and dog registration, dog licences and stray dogs; and for connected purposes. [24th March 1988]

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:—

### Modifications etc. (not altering text)

**C1** Act: Transfer of functions (1.7.1999) by [S.I. 1999/672](#), [art. 2](#), [Sch. 1](#)

## <sup>F1F2</sup>PART I **S**

### COMPETITION

### Textual Amendments

**F1** Pt. I repealed (E.W.) (27.7.1999 with effect in accordance with ss. 21, 27 of the amending Act) by [1999 c. 27](#), [ss. 21\(1\)\(b\)](#), [34](#), [Sch. 2\(1\)](#), Note

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**F2** Pt. 1 repealed (S.) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 60(1)(f), 62(2); S.S.I. 2003/134, art. 2(1), sch.

*Preliminary*

**1** **Defined authorities.** **E+W+S**  
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**2** **Defined activities.** **S**  
.....

**3** **Other definitions.** **S**  
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*Works contracts: restrictions*

**4** **Works contracts: restrictions.** **S**  
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**5** **Works contracts: transitional.** **S**  
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*Functional work: restrictions*

**6** **Functional work: restrictions.** **S**  
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**7** **The conditions.** **S**  
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**8** **The conditions: further provisions.** **S**  
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*Accounts, reports and information*

**9** **Accounts to be kept.** **S**  
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**10 Financial objectives to be met. S**

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**11 Report for financial year. S**

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**12 Information. S**

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*Sanctions*

**13 Notice for purpose of getting information. S**

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**14 Power to give directions. S**

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*Miscellaneous*

**15 Orders, regulations, specifications and directions. S**

.....

**16 Supplementary. S**

.....

**PART II E+W+S**

**PUBLIC SUPPLY OR WORKS CONTRACTS**

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

- C2** Pt. II (ss. 17-23) applied (*temp.* until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 10  
Pt. II (ss. 17-23): power to apply conferred (1.9.1997) by 1997 c. 50, s. 44, Sch. 4 para. (h)(ii); S.I. 1997/1930, art. 3

**17 Local and other public authority contracts: exclusion of non-commercial considerations. E+W+S**

- (1) It is the duty of every public authority to which this section applies, in exercising, in relation to its public supply or works contracts, any proposed or any subsisting such contract, as the case may be, any function regulated by this section to exercise

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that function without reference to matters which are non-commercial matters for the purposes of this section.

- (2) The public authorities to which this section applies are those specified in Schedule 2 to this Act.
- (3) The contracts which are public supply or works contracts for the purposes of this section are contracts for the supply of goods or materials, for the supply of services or for the execution of works; but this section does not apply in relation to contracts entered into before the commencement of this section.
- (4) The functions regulated by this section are—
  - (a) the inclusion of persons in or the exclusion of persons from—
    - (i) any list of persons approved for the purposes of public supply or works contracts with the authority, or
    - (ii) any list of persons from whom tenders for such contracts may be invited;
  - (b) in relation to a proposed public supply or works contract with the authority—
    - (i) the inclusion of persons in or the exclusion of persons from the group of persons from whom tenders are invited,
    - (ii) the accepting or not accepting the submission of tenders for the contract,
    - (iii) the selecting the person with whom to enter into the contract, or
    - (iv) the giving or withholding approval for, or the selecting or nominating, persons to be sub-contractors for the purposes of the contract; and
  - (c) in relation to a subsisting public supply or works contract with the authority—
    - (i) the giving or withholding approval for, or the selecting or nominating, persons to be sub-contractors for the purposes of the contract, or
    - (ii) the termination of the contract.
- (5) The following matters are non-commercial matters as regards the public supply or works contracts of a public authority, any proposed or any subsisting such contract, as the case may be, that is to say—
  - (a) the terms and conditions of employment by contractors of their workers or the composition of, the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces;
  - (b) whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only;
  - (c) any involvement of the business activities or interests of contractors with irrelevant fields of Government policy;
  - (d) the conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons;
  - (e) the country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors;
  - (f) any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees;
  - (g) financial support or lack of financial support by contractors for any institution to or from which the authority gives or withholds support;

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[<sup>F3</sup>(h) use or non-use by contractors of technical or professional services provided by the authority under the <sup>M1</sup>Building Act 1984 or the Building (Scotland) Act [<sup>F4</sup>2003 (asp 8)] .]

- (6) The matters specified in subsection (5) above include matters which have occurred in the past as well as matters which subsist when the function in question falls to be exercised.
- (7) Where any matter referable to a contractor would, as a matter specified in subsection (5) above, be a non-commercial matter in relation to him, the corresponding matter referable to—
- (a) a supplier or customer of the contractor;
  - (b) a sub-contractor of the contractor or his supplier or customer;
  - (c) an associated body of the contractor or his supplier or customer; or
  - (d) a sub-contractor of an associated body of the contractor or his supplier or customer;

is also, in relation to the contractor, a non-commercial matter for the purposes of this section.

- (8) In this section—

“approved list” means such a list as is mentioned in subsection (4)(a) above;

“associated body”, in relation to a contractor, means any company which (within the meaning of the <sup>M2</sup>Companies Act 1985) is the contractor’s holding company or subsidiary or is a subsidiary of the contractor’s holding company;

“business” includes any trade or profession;

“business activities” and “business interests”, in relation to a contractor or other person, mean respectively any activities comprised in, or any investments employed in or attributable to, the carrying on of his business and “activity” includes receiving the benefit of the performance of any contract;

“contractor”, except in relation to a subsisting contract, means a “potential contractor”, that is to say—

- (a) in relation to functions as respects an approved list, any person who is or seeks to be included in the list; and
- (b) in relation to functions as respects a proposed public supply or works contract, any person who is or seeks to be included in the group of persons from whom tenders are invited or who seeks to submit a tender for or enter into the proposed contract, as the case may be;

“exclusion” includes removal;

“Government policy” falls within “irrelevant fields” for the purposes of this section if it concerns matters of defence or foreign or Commonwealth policy and “involve”, as regards business activities and any such field of policy, includes the supply of goods or materials or services to, or the execution of works for, any authority or person having functions or carrying on business in that field and, as regards business interests and any such field of policy, includes investment in any authority or person whose business activities are so involved;

“industrial dispute” has, as regards a dispute in Great Britain, the same meaning as trade dispute in [<sup>F5</sup>Part V of the Trade Union and Labour Relations (Consolidation) Act 1992] and “involve”, as regards business activities and an industrial dispute, includes the supply of goods, materials or services to or by, or the execution of works for or by, any party to the dispute, any other person

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affected by the dispute, or any authority concerned with the enforcement of law and order in relation to the dispute;

“political, industrial or sectarian affiliations or interests” means actual or potential membership of, or actual or potential support for, respectively, any political party, any employers’ association or trade union or any society, fraternity or other association;

“suppliers or customers” and “sub-contractors” includes prospective suppliers or customers and sub-contractors; and “supplier”, in relation to a contractor, includes any person who, in the course of business, supplies him with services or facilities of any description for the purposes of his business;

and “employers’ association” and “trade union” have, as regards bodies constituted under the law of England and Wales or Scotland, the same meaning as in the [<sup>F6</sup>Trade Union and Labour Relations (Consolidation) Act 1992].

(9) This section is subject to section 18 below.

#### Textual Amendments

- F3** S. 17(5)(h) ceases to have effect in part (S.) (1.4.2003) by virtue of [Local Government in Scotland Act 2003 \(asp 1\)](#), **ss. 7(3)**, 62(2); S.S.I. 2003/134, art. 2(1), sch.
- F4** Words in s. 17(5)(h) substituted (S.) (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), s. 59(1), **sch. 6 para. 19** (with s. 53); S.S.I. 2004/404, art. 2(1)
- F5** S. 17(8): words in definition of "industrial dispute" substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(2), 302, **Sch. 2 para. 38(a)**
- F6** Words in s. 17(8) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\)](#), ss. 300(2), 302, **Sch. 2 para. 38(b)**

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

- C3** S. 17 power to modify conferred (27.9.1999 in relation to E. and in relation to W. for specified purposes only and otherwise 1.10.1999) by 1999 c. 27, **s. 19(1)**; S.I. 1999/2169, art. 3(2), **Sch. 2**; S.I. 1999/2815, **art. 2**
- C4** S. 17 extended (1.4.1995) by S.I. 1995/401, art. 18, **Sch. para. 12**
- C5** S. 17 modified (W.) (31.3.2002 with application as mentioned in art. 1(2)) by [The Local Government Best Value \(Exclusion of Non-commercial Considerations\) \(Wales\) Order 2002 \(S.I. 2002/678\)](#), **art. 2**
- C6** S. 17(5)(a) excluded (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), **s. 7(1)(2)62(2)**; S.S.I. 2003/134, art. 2(1), sch.
- C7** S. 17(5)(b) excluded (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), **s. 7(1)(2)62(2)**; S.S.I. 2003/134, art. 2(1), sch.
- C8** S. 17(5)(d) excluded (S.) (1.4.2003) by [Local Government in Scotland Act 2003 \(asp 1\)](#), **s. 7(1)(2)62(2)**; S.S.I. 2003/134, art. 2(1), sch.

#### Marginal Citations

- M1** 1984 c. 55.  
**M2** 1985 c. 6.

## 18 Race relations matters. **E+W+S**

- (1) Except to the extent permitted by subsection (2) below, section [<sup>F7</sup>71(1) of the <sup>M3</sup>Race Relations Act 1976 and any duty imposed by an order under section 71(2) of that Act (duties relating to the] need to eliminate unlawful racial discrimination and promote equality of opportunity, and good relations, between persons of different racial groups)

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shall not require or authorise a [<sup>F8</sup>public authority to which section 17 above applies] to exercise any function regulated by section 17 above by reference to a non-commercial matter.

(2) Subject to subsection (3) below, nothing in section 17 above shall preclude a [<sup>F9</sup>public authority to which that section applies] from—

- (a) asking approved questions seeking information or undertakings relating to workforce matters and considering the responses to them, or
- (b) including in a draft contract or draft tender for a contract terms or provisions relating to workforce matters and considering the responses to them,

if, as the case may be, consideration of the information, the giving of the undertaking or the inclusion of the term is reasonably necessary to secure compliance with the said section [<sup>F10</sup>71(1) or any duty imposed by an order under the said section 71(2)].

(3) Subsection (2) above does not apply to the function of terminating a subsisting contract and, in relation to functions as respects approved lists or proposed contracts, does not authorise questions in other than written form.

(4) Where it is permissible under subsection (2) above to ask a question it is also permissible to make, if it is in writing, an approved request for evidence in support of an answer to the question.

(5) The Secretary of State may specify—

- (a) questions which are to be approved questions for the purposes of this section; and
- (b) descriptions of evidence which, in relation to approved questions, are to be approved descriptions of evidence for those purposes;

and the powers conferred by this subsection shall be exercised in writing.

(6) Any specification under subsection (5) above may include such consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(7) In this section—

“approved question” means a question for the time being specified by the Secretary of State under subsection (5) above;

“approved request for evidence” means a request for evidence of a description for the time being specified by the Secretary of State under that subsection in relation to an approved question;

“workforce matters” means matters falling within paragraph (a), but no other paragraph, of subsection (5) of section 17 above;

and any expression used in this section and section 17 above has the same meaning in this section as in that section.

<sup>F11</sup>(7A) . . . . .

#### Textual Amendments

- F7** Words in s. 18(1) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 20(a)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F8** Words in s. 18(1) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 20(b)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F9** Words in s. 18(2) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 21(a)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

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- F10** Words in s. 18(2) substituted (2.4.2001) by 2000 c. 34, s. 9(1), **Sch. 2 para. 21(b)** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**
- F11** S. 18(7A) repealed (2.4.2001) by 2000 c. 34, s. 9(1)(2), Sch. 2 para. 22, **Sch. 3** (with s. 10(5)); S.I. 2001/566, **art. 2(1)**

#### Marginal Citations

- M3** 1976 c. 74.

## 19 Provisions supplementary to or consequential on section 17. **E+W+S**

- (1) The Secretary of State may, by order made by statutory instrument, specify as a non-commercial matter for the purposes of section 17 above, any other matter which appears to him to be irrelevant to the commercial purposes of public supply or works contracts of any description.
- (2) The power conferred by subsection (1) above includes power to apply section 17(6) and (7) above to any matter specified in the order and to amend any definition in section 17(8) above of an expression used in any paragraph of section 17(5) above without making any other provision.
- (3) An order under subsection (1) above may include such consequential and transitional provisions as appear to the Secretary of State to be necessary or expedient.
- (4) No order under subsection (1) above shall be made unless a draft of it has been laid before and approved by a resolution of each House of Parliament.
- (5) Section 17 above applies to a public authority where, in exercising functions regulated by that section, the authority is, as well as where it is not, acting on behalf of a Minister of the Crown.
- (6) Where a public authority makes arrangements under section 101 of the <sup>M4</sup>Local Government Act 1972 [<sup>F12</sup>, regulations under section 19 of the Local Government Act 2000 (discharge of functions of and by another local authority)] or in relation to Scotland section 56 of the <sup>M5</sup>Local Government (Scotland) Act 1973 for the exercise by another public authority of any function regulated by section 17 above, section 17 shall apply to that other public authority in exercising that function as if it were exercising the function in relation to its own public supply or works contracts, any proposed or any subsisting such contract, as the case may be.
- (7) The duty imposed by section 17(1) above does not create a criminal offence but—
  - (a) in proceedings for judicial review, the persons who have a sufficient interest or, in Scotland, title and interest in the matter shall include any potential contractor or, in the case of a contract which has been made, former potential contractor (or, in any case, any body representing contractors), as such; and
  - (b) a failure to comply with it is actionable by any person who, in consequence, suffers loss or damage.
- (8) In any action under section 17(1) above by a person who has submitted a tender for a proposed public supply or works contract arising out of the exercise of functions in relation to the proposed contract the damages shall be limited to damages in respect of expenditure reasonably incurred by him for the purpose of submitting the tender.
- (9) Nothing in section 17 above or subsection (1) above implies that the exercise of any function regulated by that section may not be impugned, in proceedings for judicial



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review, on the ground that it was exercised by reference to other matters than those which are non-commercial matters for the purposes of that section.

(10) If a public authority, in relation to public supply or works contracts or any proposed such contract, as the case may be—

- (a) asks a question of any potential contractor relating to any non-commercial matter other than a question consideration of the answer to which is permitted by section 18 above, or
- (b) submits to any potential contractor a draft contract or draft tender for a contract which includes terms or provisions relating to any non-commercial matter other than a term or provision the inclusion of which in the contract is permitted by section 18 above,

the authority shall be treated, for the purposes of section 17 above, as exercising functions regulated by that section by reference to non-commercial matters.

(11) In consequence of section 17 above, the following provisions (which require local authorities to secure the insertion of fair wages clauses in all housing contracts), namely—

- (a) section 52(a) of the <sup>M6</sup>Housing Act 1985, and
- (b) section 337 of the <sup>M7</sup>Housing (Scotland) Act 1987,

shall cease to have effect.

(12) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

#### Textual Amendments

**F12** Words in s. 19(6) inserted (11.7.2001 for E., 1.4.2002 for W.) by [The Local Authorities \(Executive and Alternative Arrangements\) \(Modification of Enactments and Other Provisions\) \(England\) Order 2001 \(S.I. 2001/2237\)](#), art. 18(1) and [The Local Authorities \(Executive and Alternative Arrangements\) \(Modification of Enactments and Other Provisions\) \(Wales\) Order 2002 \(S.I. 2002/808\)](#), **art. 17(1)**

#### Marginal Citations

**M4** 1972 c. 70.  
**M5** 1973 c. 65.  
**M6** 1985 c. 68.  
**M7** 1987 c. 26.

## 20 Duty of public authorities to give reasons for certain decisions within section 17. **E+W+S**

- (1) Where a public authority exercises a function regulated by section 17 above by making, in relation to any person, a decision to which this section applies, it shall be the duty of the authority forthwith to notify that person of the decision and, if that person so requests in writing within the period of 15 days beginning with the date of the notice, to furnish him with a written statement of the reasons for the decision.
- (2) This section applies to the following decisions in relation to any person, namely—
  - (a) in relation to an approved list, a decision to exclude him from the list,
  - (b) in relation to a proposed public supply or works contract—

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- (i) where he has asked to be invited to tender for the contract, a decision not to invite him to tender,
  - (ii) a decision not to accept the submission by him of a tender for the contract,
  - (iii) where he has submitted a tender for the contract, a decision not to enter into the contract with him, or
  - (iv) a decision to withhold approval for, or to select or nominate, persons to be sub-contractors for the purposes of the contract, or
  - (c) in relation to a subsisting public supply or works contract with him—
    - (i) a decision to withhold approval for, or to select or nominate, persons to be sub-contractors for the purposes of the contract, or
    - (ii) a decision to terminate the contract.
- (3) A statement of reasons under subsection (1) above shall be sent to the person requesting it within the period of 15 days beginning with the date of the request.
- (4) The Secretary of State may by order amend subsection (1) or (3) above so as to substitute for the period specified in that subsection such other period as he thinks fit and such an order may make different amendments of subsections (1) and (3).
- (5) The power to make an order under subsection (4) above is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

## 21 Transitional duty of public authorities as regards existing lists. **E+W+S**

- (1) Subject to subsection (3) below, it is the duty of a public authority which, at the commencement of this section, maintains an approved list—
- (a) to consider whether persons have been included in or excluded from the list by reference to non-commercial matters, and
  - (b) if it appears to the authority that that is the case to compile the list afresh in accordance with subsections (4) to (6) below.
- (2) Persons shall be treated by a public authority as having been excluded from a list by reference to non-commercial matters if, in relation to the list, the authority has—
- (a) circulated to potential contractors questionnaires including questions relating to non-commercial matters, or
  - (b) notified potential contractors of its intention to have regard to non-commercial matters, or
  - (c) issued statements of policy framed by reference to non-commercial matters.
- (3) Inclusion or exclusion by a local authority from its list by reference to a non-commercial matter does not give rise to the duty to compile the list afresh under subsection (1) above if that matter falls within paragraph (a) (but no other paragraph) of section 17(5) above and the local authority's action was reasonably necessary to secure compliance with section 71 of the <sup>M8</sup>Race Relations Act 1976.
- (4) The duty of an authority to compile afresh an approved list shall be discharged as follows—

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- (a) the authority shall publish notice of its intention to compile the list afresh and (by the notice) invite persons to apply within a specified period to be included in the list; and
  - (b) at the end of that period the authority shall proceed to compile the list afresh from among the applicants in accordance with the duty imposed by section 17 above.
- (5) Publication by an authority of the notice required by subsection (4) above shall be effected by causing the notice to be published—
- (a) in at least one newspaper circulating in the authority's area or, if the extent of the authority's functions so require, in at least one national newspaper; and
  - (b) in at least one newspaper or journal circulating among such persons as undertake contracts of the description to which the list relates.
- (6) The period specified in the notice under subsection (4) above as the period within which applications are to be made shall not be shorter than the period of 28 days beginning with the date of publication of the notice.
- (7) The duty imposed by this section shall be discharged by a public authority as soon as is reasonably practicable after the commencement of this section and in any event within the period of three months.
- (8) This section does not create a criminal offence but paragraph (a) of section 19(7) above applies for the purposes of the duty imposed by this section as it applies for the purposes of the duty imposed by section 17(1) above.
- (9) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

#### Marginal Citations

M8 1976 c. 74.

## 22 Exclusion of charges for inclusion in approved list. **E+W+S**

- (1) A public authority which maintains an approved list shall not require a person to pay any sum as a condition of his inclusion or continued inclusion in the list or of his being considered for such inclusion.
- (2) Subsection (1) above does not create an offence but a contravention of it is actionable by the person seeking to be included or retained in the list.
- (3) Expressions used in this section and section 17 above have the same meaning in this section as in that section.

## 23 Commencement. **E+W+S**

Sections 17 to 22 above shall come into force at the end of the period of 14 days beginning with the day on which this Act is passed.

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**PART III E+W+S**

PRIVATELY LET HOUSING ACCOMMODATION

**24 Power to provide financial assistance for privately let housing accommodation. E+W+S**

- (1) Subject to section 25 below, a local housing authority shall have power to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, rehabilitation, improvement, maintenance or management (whether by that person or by another) of any property which is or is intended to be privately let as housing accommodation.
- (2) For the purposes of this section and section 25 below a local authority provide a person with financial assistance if they do or agree to do any of the following, that is to say—
  - (a) make a grant or loan to that person;
  - (b) guarantee or join in guaranteeing the performance of any obligation owed to or by that person;
  - (c) indemnify or join in indemnifying that person in respect of any liabilities, loss or damage; or
  - (d) if that person is a body corporate, acquire share or loan capital in that person.
- (3) For the purposes of this section property is privately let as housing accommodation at any time when—
  - (a) it is occupied as housing accommodation in pursuance of a lease or licence of any description or under a statutory tenancy; and
  - (b) the immediate landlord of the occupier of the property is a person other than a local authority in England and Wales or a public-sector landlord in Scotland.
- (4) Neither section 438 of the <sup>M9</sup>Housing Act 1985 (local authority mortgage interest rates) nor section 219 of the <sup>M10</sup>Housing (Scotland) Act 1987 (local authority home-loan interest rates) shall apply in relation to anything done under this section.
- (5) In the <sup>M11</sup>Housing Associations Act 1985—
  - <sup>F13</sup>(a) .....
  - (b) ..... <sup>F14</sup>
  - <sup>F13</sup>(c) .....
- (6) In this Part—
  - “disposal”, in relation to any land, includes a disposal by the creation of any interest in the land;
  - “housing accommodation”, in relation to England and Wales, has the same meaning as in Part II of the <sup>M12</sup>Housing Act 1985;
  - “landlord”, in relation to a person whose occupation of any property is in pursuance of a lease or statutory tenancy, has the same meaning as in the <sup>M13</sup>Landlord and Tenant Act 1985 or, in Scotland, the <sup>M14</sup>Rent (Scotland) Act 1984 and, in relation to a person whose occupation is in pursuance of a licence, means the person who for the time being owns the interest in right of which the licence was granted;
  - “lease”, in relation to England and Wales, has the same meaning as in the Housing Act 1985;

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“loan” includes any form of credit and the remission (whether in whole or in part and whether temporarily or permanently) of any liability or obligation;

“local authority”—

(a) in relation to England and Wales, means a local housing authority or a county council;

(b) in relation to Scotland, means a <sup>F15</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“local housing authority”—

(a) in relation to England and Wales, has the same meaning as in the Housing Act 1985;

(b) in relation to Scotland, means <sup>F16</sup>a local authority];

“public-sector landlord”, in relation to Scotland, means—

(a) a local authority;

(b) a joint board or joint committee within the meaning of the <sup>M15</sup>Local Government (Scotland) Act 1973;

(c) any trust under the control of any body mentioned in paragraph (a) or (b) above;

(d) a development corporation established by an order made, or having effect as if made, under section 2 of the <sup>M16</sup>New Towns (Scotland) Act 1968;

(e) the Scottish Special Housing Association;

“statutory tenancy”—

(a) in relation to England and Wales, has the same meaning as in the <sup>M17</sup>Housing Act 1985;

(b) in relation to Scotland, has the same meaning as in the <sup>M18</sup>Rent (Scotland) Act 1984.

#### Textual Amendments

**F13** S. 24(5)(a)(c) repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3**

**F14** S. 24(5)(b) repealed by **Housing Act 1988 (c. 50, SIF 61)**, s. 140(2), **Sch. 18**

**F15** S. 24(6): words in definition of “local authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(5)(a)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F16** S. 24(6): words in definition of “local housing authority” substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(5)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

#### Marginal Citations

**M9** 1985 c. 68.

**M10** 1987 c. 26.

**M11** 1985 c. 69.

**M12** 1985 c. 68.

**M13** 1985 c. 70.

**M14** 1984 c. 58.

**M15** 1973 c. 65.

**M16** 1968 c. 16.

**M17** 1985 c. 68.

**M18** 1984 c. 58.

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## 25 Consent required for provision of financial assistance etc. **E+W+S**

- (1) Subject to the following provisions of this section, a local authority shall neither—
- (a) exercise the power conferred by section 24 above; nor
  - (b) so exercise any other power [<sup>F17</sup>(whether conferred before or after the passing of this Act)] as to provide any person, for the purposes of or in connection with the matters mentioned in subsection (1) of that section, with any financial assistance or with any gratuitous benefit,
- except under and in accordance with a consent given by the Secretary of State.
- (2) Nothing in this section shall require the consent of the Secretary of State to a person's being provided by any local authority with any assistance or benefit if—
- (a) an obligation to provide that person with that particular assistance or benefit—
    - (i) is imposed on the authority by or under any enactment; or
    - (ii) not being an obligation arising as the result of the exercise on or after 6th February 1987 of any option conferred on the authority, has arisen by virtue of an agreement entered into by them before that date;
  - [<sup>F18</sup>(b) the assistance or benefit is provided in consequence of, or in connection with, the making by the authority, or by persons who include the authority, of a requirement under [<sup>F19</sup>section 41 or 98 of the Water Industry Act 1991] for the provision of a water main or public sewer;]
  - (c) the assistance or benefit is provided under [<sup>F20</sup>section 257(3) of the National Health Service Act 2006 or section 195(3) of the National Health Service (Wales) Act 2006] or section 16A(3)(b) of the National Health Service (Scotland) Act 1978 (power to make payments to voluntary organisations out of sums received from health authorities);
  - (d) the assistance or benefit is provided in exercise of any power the expenses of exercising which are recoverable under Schedule 10 to the <sup>M19</sup>Housing Act 1985 or Schedule 9 to the <sup>M20</sup>Housing (Scotland) Act 1987 (recovery of expenses of carrying out works required to be carried out by a repair notice, . . . <sup>F21</sup> or a notice relating to a house in multiple occupation);
  - (e) the assistance or benefit is provided in consequence of, or in connection with, the service . . . <sup>F22</sup> of an improvement order under Part IV of the said Act of 1987, . . . <sup>F22</sup>; or
  - (f) the assistance or benefit is provided in exercise of any power conferred by—
    - (i) section 273 of the said Act of 1985 (power to cleanse premises of vermin before demolition);
    - (ii) sections 379 to 394 of the said Act of 1985 or sections 178 to 190 of the said Act of 1987 (powers exercisable pursuant to the making of a control order);<sup>F23</sup> . . .
    - (iii) Parts XIV to XVI of the said Act of 1985 or Parts XII to XIV of the said Act of 1987 (loans and grants for, and assistance with, the acquisition, improvement, repair and conversion of housing)[<sup>F24</sup> or
    - (iv) article 3 of the Regulatory Reform (Housing Assistance)(England and Wales) Order 2002 (power of local housing authorities to provide assistance)]
- (3) Any transaction entered into in contravention of this section shall be void.
- (4) Subject to subsections (3) and (4) of section 26 below, where at any time on or after 6th February 1987 and before the passing of this Act a local authority in England and Wales has done anything which would have been a contravention of this section if it

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had been in force at that time, the same consequences shall follow as if this section had been in force at that time.

- (5) For the purposes of this section a local authority provide a person with a gratuitous benefit if—
- (a) they provide that person, or agree to provide that person, with a benefit consisting in the disposal to any person of any land or other property, in the provision to any person of any goods, services or facilities, in the carrying out for any person of any works or in the making to any person of any payment; and
  - (b) that benefit is or is to be provided either for no consideration or for a consideration which has a value in money or money's worth which is significantly less than the value, in money or money's worth, of the benefit which is or is to be provided by the authority.
- (6) In determining for the purposes of subsection (5) above whether any benefit is or is to be provided by a local authority for no consideration, and in determining for those purposes the value of any consideration, there shall be disregarded—
- (a) so much (if any) of the consideration for the benefit in question as consists—
    - (i) in the acquisition by any person of any such property as is mentioned in section 24(1) above or in a promise that any such property will be acquired by any person;
    - (ii) in the carrying out of any works by any person for the purposes of the construction, conversion, rehabilitation, improvement or maintenance of any such property or in a promise that any works will be carried out by any person for any such purposes;
    - (iii) in the carrying out by any person of any acts of management in relation to any such property or in a promise that any acts of management will be carried out by any person in relation to any such property; or
    - (iv) in the grant of a right to nominate persons to be occupiers of any such property or in a promise to grant any such right;
- and
- (b) without prejudice to paragraph (a) above, so much of any transaction entered into after the passing of this Act otherwise than in pursuance of another transaction entered into before that time as provides, in relation to any property which is or is intended to be occupied as housing accommodation, for an obligation which—
    - (i) restricts the occupation of the property as housing accommodation, or
    - (ii) (whether because it relates to a matter affecting the suitability of the property for particular purposes or otherwise) has the effect of restricting its occupation as housing accommodation,to occupation by persons of a particular description or to occupation by virtue of an interest or agreement of a particular description.
- (7) In the application of this section to Scotland the references in subsection (2)(a)(ii) above to 6th February 1987 shall have effect as references to the date on which this Act is passed.

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### Textual Amendments

- F17** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(1), **Sch. 11 para. 96**
- F18** S. 25(2)(b) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 25 para. 79(2), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), **58**
- F19** Words in s. 25(2)(b) substituted (E.W.) (1.12.1991) by [Water Consolidation \(Consequential Provisions\) Act 1991 \(c. 60, SIF 130\)](#), ss. 2(1), 4(2), **Sch. 1 para. 48**
- F20** Words in s. 25(2)(c) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), **Sch. 1 para. 103** (with Sch. 3 Pt. 1)
- F21** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(4), **Sch. 12 Pt. II**
- F22** Words repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\)](#), s. 194(4), **Sch. 12 Pt. II**
- F23** Word in s. 25(2)(f)(ii) repealed (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(2), 15, **Sch. 6**
- F24** S. 25(2)(f)(iv) and preceding word inserted (19.7.2002) by [The Regulatory Reform \(Housing Assistance\) \(England and Wales\) Order 2002 \(S.I. 2002/1860\)](#), arts. 1(2), 9, **Sch. 1 para. 3**

### Modifications etc. (not altering text)

- C9** S. 25 excluded (11.9.1996 for specified purposes and otherwise 16.12.1997) by [1996 c. 53, s. 132\(7\)](#); [S.I. 1996/2352, art. 2\(2\)](#); [S.I. 1997/2846, art. 2](#)

### Marginal Citations

- M19** [1985 c. 68](#).  
**M20** [1987 c. 26](#).

## 26 Consents under section 25. **E+W+S**

- (1) A consent given for the purposes of section 25 above—
- may be given either unconditionally or subject to conditions;
  - may be given in relation to a particular case or in relation to such description of cases (including cases described by reference to a particular local authority or a particular manner of providing assistance or benefits) as may be specified in the consent; and
  - except in relation to anything already done or agreed to be done on the authority of the consent, may be varied or revoked by a notice given or published by the Secretary of State in such manner as he may consider appropriate.
- (2) In determining whether to give a consent for the purposes of section 25 above in relation to any assistance or benefit or whether to vary or revoke a consent so given, and in determining to what (if any) conditions such a consent should be subject, the Secretary of State—
- shall take into account the extent (if any) to which, and the circumstances in which, it is appropriate, in his opinion, that a local authority should bear the financial burden and risks of acquiring, constructing, converting, rehabilitating, improving, maintaining or managing any of the property in relation to which assistance or benefits might be provided by virtue of the consent; and
  - may take into account any other matter whatever which he considers relevant.



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- (3) Where before the passing of this Act any statement has been made by or on behalf of the Secretary of State—
- (a) that, if an enactment were in force requiring his consent to a person's being provided by a local authority with assistance or benefits of any description, he would give his consent for the purposes of that enactment in relation to any matter or would so give his consent subject to certain conditions; and
  - (b) that, if any such enactment is passed, his statement is to be treated as a consent for the purposes of that enactment,
- that statement shall have effect, both for the purposes of subsection (4) of section 25 above and after the passing of this Act, as if it were a consent given for the purposes of that section on the conditions (if any) specified in the statement.
- (4) Where a consent given for the purposes of section 25 above or a statement such as is mentioned in subsection (3) above relates, in whole or in part, to any assistance or benefits provided before the consent was given or the statement made, that consent or statement shall have effect for the purposes of this section and that section—
- (a) as if the consent had been given, or the statement made, before the assistance or benefits were provided; and
  - (b) in the case of a consent relating to any assistance or benefits provided before the passing of this Act, as if the consent had been such a statement;
- but a consent or statement having effect in accordance with this subsection shall not affect any interest deriving from, or impose any liability in respect of, any disposal of property which was made before the giving of the consent or the making of the statement and was made by a person who, apart from paragraphs (a) and (b) above, had power to make it by virtue of section 25(3) or (4) above.
- (5) Where a consent to a disposal of land by a local authority has been given for the purposes of section 25 above or any such statement as is mentioned in subsection (3) above has effect as such a consent [<sup>F25</sup>then, if the consent given for the purposes of section 25 above so provides], no further consent of the Secretary of State to that disposal shall (if the disposal is after the passing of this Act) be required by virtue of—
- (a) section 26(4) of the <sup>M21</sup>Town and Country Planning Act 1959 or section 74(2) of the <sup>M22</sup>Local Government (Scotland) Act 1973 (disposal of land for less than the best price etc.);
  - (b) section 123(2) of the <sup>M23</sup>Local Government Act 1972 (disposal of land by certain local authorities); or
  - (c) section 32(2) or 43(1) of the <sup>M24</sup>Housing Act 1985 or section 12 of the <sup>M25</sup>Housing (Scotland) Act 1987 (disposal of land held for housing purposes and of certain other land).
- (6) Subsection (3) above and, in so far as they relate to a statement such as is mentioned in that subsection, subsections (4) and (5) above shall not extend to Scotland.

#### Textual Amendments

**F25** Words inserted by [Housing Act 1988 \(c. 50, SIF 61\), s. 132\(7\)](#)

#### Marginal Citations

**M21** 1959 c. 53.

**M22** 1973 c. 65.

**M23** 1972 c. 70.

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**M24** 1985 c. 68.

**M25** 1987 c. 26.

## PART IV **E+W+S**

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### 27 **Local authority publicity.** **E+W+S**

(1) In section 2 of the <sup>M26</sup>Local Government Act 1986 (prohibition of political publicity by local authorities), for subsection (2) (matters to be considered in determining whether material prohibited) there shall be substituted—

“(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

- (a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;
- (b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.”

(2) In section 4 of that Act (issue by Secretary of State of codes of recommended practice on publicity), in subsection (1) for the words from “for the guidance” to the end there shall be substituted “; and local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.”

(3) This section shall come into force at the end of the period of two months beginning with the day on which this Act is passed.

#### Marginal Citations

**M26** 1986 c. 10.

#### <sup>F26</sup>28 **Prohibition on promoting homosexuality by teaching or by publishing material.** **E+W+S**

.....

#### Textual Amendments

**F26** S. 28 repealed: (S.) (29.3.2001) by 2000 asp 7, s. 36(1), **Sch. 4** (with s. 31); S.S.I. 2001/113, **art. 2(c)** (**d**); and (18.11.2003) by **Local Government Act 2003** (c. 26), s. 128(2)(f)(ii), **Sch. 8 Pt. 1**

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**29 Local government administration.** **E+W+S**

- (1) Schedule 3 to this Act (which relates to local government administration) shall have effect.
- (2) That Schedule shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) In that Schedule, paragraphs 1 to 10 extend to England and Wales only and paragraphs 11 to 17 extend to Scotland only.

**F27 30** ..... **E+W**

**Textual Amendments**

**F27** S. 30 repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), Sch. 5

**31 Land held by public bodies.** **E+W**

- (1) Schedule 5 to this Act (which relates to land held by public bodies) shall have effect.
- (2) Subject to subsection (3) below, that Schedule shall come into force at the end of the period of 2 months beginning with the day on which this Act is passed.
- (3) Paragraph 2 of that Schedule shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (4) This section and that Schedule extend to England and Wales only.

**F28 32 Direct labour organisations.** **S**

.....

**Textual Amendments**

**F28** S. 32 repealed: (E.W.) (27.7.1999 with effect in accordance with ss. 21, 27 of the amending Act) by 1999 c. 27, ss. 21(1)(c), 34, Sch. 2(1), Note; and (S.) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 60(1)(f), 62(2); S.S.I. 2003/134, art. 2(1), sch.

**F29 33 Local authority companies.** **E+W+S**

.....

**Textual Amendments**

**F29** S. 33 repealed: (S.) (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 60(1)(f), 62(2); S.S.I. 2003/134, art. 2(1), sch.; and (E.W.) (18.11.2003 for E., 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 7 para. 8, Sch. 8 Pt. 1; S.I. 2003/2938, art. 3(a)(i)(ii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. 1

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### 34 Arrangements under Employment and Training Act 1973. **E+W**

- (1) In section 45(2) of the <sup>M27</sup>Local Government (Miscellaneous Provisions) Act 1982 (local authorities having power to enter into arrangements under <sup>M28</sup>Employment and Training Act 1973) after paragraph (a) there shall be inserted—
- “(aa) an authority established by Part III or IV of the Local Government Act 1985 or by an order under section 10 of that Act;
- (ab) a body corporate established by an order under section 67 of that Act.”
- (2) This section shall be deemed to have come into force, as regards any authority or body concerned, on the day the authority or body was established.
- (3) This section extends to England and Wales only.

#### Marginal Citations

M27 1982 c. 30.

M28 1973 c. 50.

### 35 Amendment of Local Government (Scotland) Act 1973. **S**

- (1) The <sup>M29</sup>Local Government (Scotland) Act 1973 shall be amended in accordance with the provisions of this section.
- (2) In section 97 (establishment of Commission for Local Authority Accounts in Scotland), in subsection (2) the word “and” after paragraph (c) shall be omitted and at the end there shall be added “and
- (e) functions conferred by sections 97A and 97B of this Act.”
- (3) After section 97 there shall be inserted the following sections—

#### “97A Studies for improving economy etc. in services.

- (1) The Commission shall undertake or promote comparative and other studies designed to enable it to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local authorities or by other bodies whose accounts are required to be audited in accordance with this Part of this Act, and for improving the financial or other management of such authorities or other bodies.
- (2) The Commission shall publish or otherwise make available its recommendations and the results of any studies undertaken or promoted under this section.
- (3) Before undertaking or promoting any study under this section the Commission shall consult such associations of local authorities or other bodies whose accounts are required to be audited in accordance with this Part of this Act as appear to it to be concerned and such associations of employees as appear to it to be appropriate.

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**97B Furnishing of information and documents to Commission.**

- (1) Without prejudice to any other provision of this Part of this Act, the Commission may require any body whose accounts are required to be audited in accordance with this Part of this Act, and any officer or member of any such body, to furnish the Commission or any person authorised by it with all such information as the Commission or that person may reasonably require for the discharge of the functions under this Part of this Act of the Commission or of that person, including the carrying out of any study under section 97A of this Act.
- (2) Any person who without reasonable excuse fails to comply with a requirement imposed by subsection (1) above shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.”
- (4) In section 99 (general duties of auditors) after paragraph (b) there shall be added—
  - “(c) that the local authority has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.”
- (5) This section shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) This section extends to Scotland only.

**Marginal Citations**

M29 1973 c. 65.

<sup>F30</sup>**36** ..... **E+W+S**

**Textual Amendments**

**F30** S. 36 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. II**

**37 Dog registration scheme. E+W+S**

- (1) The Secretary of State may by regulations make provision for the establishment and administration of a dog registration scheme by local authorities, or such other organisations as he may, after consulting with them, designate.
- (2) Regulations made under this section shall be exercisable by statutory instrument.

<sup>F31</sup>**38 Abolition of duty on dog licences. E+W+S**

.....

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#### Textual Amendments

**F31** S. 38 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 17 Group 1

#### <sup>F32</sup>39 Control of stray dogs. **E+W**

.....

#### Textual Amendments

**F32** S. 39 repealed (6.4.2008) by Clean Neighbourhoods and Environment Act 2005 (c. 16), s. 108(3), Sch. 5 Pt. 6; S.I. 2008/956, art. 2(b)

### General

#### 40 Finance. **E+W+S**

There shall be paid out of money provided by Parliament—

- (a) any expenses of the Secretary of State incurred in consequence of this Act;
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

#### 41 Repeals. **E+W+S**

The enactments mentioned in Schedule 7 to this Act are repealed to the extent specified in column 3, but subject to any provision at the end of any Part of that Schedule.

#### 42 Citation and extent. **E+W+S**

- (1) This Act may be cited as the Local Government Act 1988.
- (2) This Act does not extend to Northern Ireland.

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## SCHEDULES

### SCHEDULE 1 **E+W+S**

Section 2.

#### COMPETITION

##### *Collection of refuse*

- 1 (1) <sup>F33</sup> . . . the following (and only the following) fall within section 2(2)(a) above—
- (a) the collection of household waste, and
  - (b) the collection of commercial waste.
- (2) In sub-paragraph (1) above—
- (a) household waste means anything (other than sewage) which is for the time being household waste for the purposes of [<sup>F34</sup>section 45 of the Environmental Protection Act 1990], and
  - (b) commercial waste means anything (other than sewage) which is for the time being commercial waste for those purposes.
- (3) In sub-paragraph (2) above “sewage” has the same meaning as in [<sup>F35</sup>section 75(8) of the Environmental Protection Act 1990].
- <sup>F36</sup>(4) . . . . .

#### **Textual Amendments**

- F33** Words in Sch. 1 para. 1(1) omitted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), ss. 162(1), 164(3), [Sch. 15 para. 27\(a\)](#); S.I. 1994/1096, [art. 2\(1\)](#) and expressed to be repealed (*prosp.*) by 1990 c. 43, s. 162(2), [Sch. 16 Pt. II](#)
- F34** Words in Sch. 1 para. 1(2)(a) substituted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 27\(b\)](#); S.I. 1994/1096, [art. 2\(1\)](#)
- F35** Words in Sch. 1 para. 1(3) substituted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), [Sch. 15 para. 27\(c\)](#); S.I. 1994/1096, [art. 2\(1\)](#)
- F36** Sch. 1 para. 1(4) omitted (1.5.1994) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(1), 164(3), [Sch. 15 para. 27\(d\)](#); S.I. 1994/1096, [art. 2\(1\)](#) and expressed to be repealed (*prosp.*) by 1990 c. 43, s. 162(2), [Sch. 16 Pt. II](#)

##### *Cleaning of buildings*

- 2 (1) The cleaning of the windows of any building (whether inside or outside) and the cleaning of the interior of any building fall within section 2(2)(b) above.
- (2) But the following do not fall within section 2(2)(b) above—
- (a) the cleaning of the exterior (which here excludes windows) of any building;
  - (b) the cleaning of the windows or interior of a dwelling, residential establishment or [<sup>F37</sup>regional police establishment].

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- (3) In sub-paragraph (2) above “dwelling” means a building or part of a building occupied as a person’s home or as other living accommodation (whether the occupation is separate or shared with others) but does not include any part not so occupied.
- (4) In sub-paragraph (2) above “residential establishment” means (except in relation to Scotland) a building or part of a building in which residential accommodation is provided under—
- (a) section 21 or 29 of the National Assistance Act 1948,
  - (b) <sup>F38</sup> . . . , or
  - <sup>F39</sup>(c) section 53 of the Children Act 1989.]
- (5) In sub-paragraph (2) above “residential establishment”, in relation to Scotland, has the same meaning as in the <sup>M30</sup>Social Work (Scotland) Act 1968.
- <sup>F40</sup>(6) In sub-paragraph (2) above “regional police establishment” means a building or part of a building which, in pursuance of an agreement under section 13 of the Police Act 1964 <sup>F41</sup> or section 12 of the Police (Scotland) Act 1967 <sup>F42</sup>, is used by two or more police forces for the joint discharge by them of functions relating to the investigation of crime.]

#### Textual Amendments

- F37** Words in Sch. 1 para. 2(2)(b) substituted (20.8.1995) by S.I. 1995/1915, art. 3(1)
- F38** Words in Sch. 1 para. 2(4)(b) repealed (1.4.1993) by National Health Service and Community Care Act 1990 (c. 19, SIF 113:2), s. 66(2), Sch. 10; S.I. 1992/2975, art. 2 (2), Sch.
- F39** Sch. 1 para. 2(4)(c) substituted (E.W.) (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5), Sch. 13 para. 72; S.I. 1991/828, art. 3(2)
- F40** Sch. 1 para. 2(6) substituted (20.8.1995) by S.I. 1995/1915, art. 3(2)
- F41** 1964 c.48. Section 13 is amended by paragraph 2 of Schedule 5 to the Police and Magistrates's Courts Act 1994 (c.29).
- F42** 1967 c.77.

#### Marginal Citations

- M30** 1968 c. 49.

#### Other cleaning

- 3 (1) The following (and only the following) fall within section 2(2)(c) above—
- (a) the removal of litter from any land;
  - (b) the emptying of litter bins;
  - (c) the cleaning (by sweeping or otherwise) of any street;
  - (d) the emptying of gullies;
  - (e) the cleaning of traffic signs and street name plates.
- (2) In sub-paragraph (1) above—
- “gullies” includes catchpits and interceptors;
- “litter” includes leaves but not derelict vehicles, derelict vessels or scrap metal;



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“litter bin” (except in relation to Scotland) means a receptacle provided in a street or public place for refuse or litter, and (in relation to Scotland) has the same meaning as in section 7 of the Litter Act 1983;

“street” (except in relation to Scotland) has the meaning given by section 329(1) of the <sup>M31</sup>Highways Act 1980, and (in relation to Scotland) means a road as defined in section 25(3) of the <sup>M32</sup>Local Government and Planning (Scotland) Act 1982;

“traffic sign” has the meaning given by section 64(1) of the <sup>M33</sup>Road Traffic Regulation Act 1984 except that it does not include a line or mark on a road.

#### Marginal Citations

**M31** 1980 c. 66.

**M32** 1982 c. 43.

**M33** 1984 c. 27.

#### *Catering: schools and welfare*

- 4 (1) The following (and only the following) fall within section 2(2)(d) above—
- (a) providing ingredients for, and preparing, delivering and serving, meals for consumption in schools other than excepted schools;
  - (b) providing refreshments for consumption in schools other than excepted schools;
  - (c) providing ingredients for, and preparing and delivering, meals for consumption in residential establishments or day centres other than excepted establishments or centres;
  - (d) providing refreshments for consumption in residential establishments or day centres other than excepted establishments or centres;
  - (e) providing ingredients for, and preparing, meals for provision to persons in their own homes under section 45 of the Health Services and Public Health Act 1968, section 2(1)(g) of the <sup>M34</sup>Chronically Sick and Disabled Persons Act 1970, Part II of Schedule 9 to the <sup>M35</sup>Health and Social Services and Social Security Adjudications Act 1983 or section 12 of the <sup>M36</sup>Social Work (Scotland) Act 1968.
- (2) For the purposes of sub-paragraph (1) above a school is an excepted one if—
- (a) it is a special school or a school on whose premises all or some of the pupils reside,
  - (b) it is maintained by a local education authority or, in Scotland, it is under the management of an education authority, and
  - (c) meals are prepared on its premises.
- (3) For the purposes of sub-paragraph (1) above an establishment or centre is an excepted one if it is maintained by a local authority and meals are prepared on its premises; and “local authority” here has the same meaning as in section 1(1) above.
- (4) In this paragraph “residential establishment” has the same meaning as in paragraph 2 above.

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- (5) In this paragraph “day centre” means premises (other than residential premises) where facilities are provided under—
- (a) section 29 of the <sup>M37</sup>National Assistance Act 1948,
  - (b) section 45 of the <sup>M38</sup>Health Services and Public Health Act 1968,
  - (c) section 12 of the <sup>M39</sup>Social Work (Scotland) Act 1968,
  - (d) Schedule 8 to the <sup>M40</sup>National Health Service Act 1977, or
  - (e) Part II of Schedule 9 to the <sup>M41</sup>Health and Social Services and Social Security Adjudications Act 1983.

#### Marginal Citations

**M34** 1970 c. 44.

**M35** 1983 c. 41.

**M36** 1968 c. 49.

**M37** 1948 c. 29.

**M38** 1968 c. 46.

**M39** 1968 c. 49.

**M40** 1977 c. 49.

**M41** 1983 c. 41.

#### *Other catering*

- 5 (1) The following (and only the following) fall within section 2(2)(e) above—
- (a) providing ingredients for, and preparing and serving, meals;
  - (b) providing refreshments.
- (2) But an activity does not fall within section 2(2)(e) above if—
- (a) the meals or refreshments are for consumption in schools, residential establishments, day centres, institutions of further education, or hostels in Scotland used mainly by pupils attending schools, or
  - (b) the activity falls within paragraph 4(1)(e) above.
- (3) In sub-paragraph (2) above “residential establishment” and “day centre” have the same meanings as in paragraph 4 above.
- (4) In sub-paragraph (2) above “institution of further education” means (except in relation to Scotland) an institution [<sup>F43</sup>which is maintained by a local education authority and provides higher education or further education (or both)].
- (5) In sub-paragraph (2) above “institution of further education” means, in relation to Scotland, an institution for the provision by an education authority of any form of further education within the meaning of section 135(1) of the <sup>M42</sup>Education (Scotland) Act 1980.

#### Textual Amendments

**F43** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 107](#)

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### Marginal Citations

M42 1980 c. 44.

### *Maintenance of ground*

- 6 (1) Subject to sub-paragraph (2) below, the following (and only the following) fall within section 2(2)(f) above—
- (a) cutting and tending grass (including re-turfing and re-seeding but not initial turfing or seeding);
  - (b) planting and tending trees, hedges, shrubs, flowers and other plants (but excluding landscaping any area);
  - (c) controlling weeds.
- (2) An activity does not fall within section 2(2)(f) above if its primary purpose is research or securing the survival of any kind of plant.

### *Supervision of parking*

- [<sup>F44</sup>6A (1) The following (and only the following) fall within section 2(2)(ff) above—
- (a) the fixing or giving of penalty charge notices under section 66 of the 1991 Act;
  - (b) the fixing or removal, or authorising the fixing or removal, of immobilisation devices under section 69 of the 1991 Act;
  - (c) the removal, or the making of arrangements for the removal, of vehicles in pursuance of regulations under section 99 of the 1984 Act, where the removal is effected or arranged by parking attendants; and
  - (d) the making of arrangements for the custody, release or disposal of vehicles whose removal is effected or arranged as mentioned in paragraph (c) above.
- (2) In this paragraph—
- “the 1984 Act” means the Road Traffic Regulation Act 1984 <sup>F45</sup>;
- “the 1991 Act” means the Road Traffic Act 1991 <sup>F46</sup>;
- “parking attendant” has the same meaning as in section 63A of the 1984 Act <sup>F47</sup>.]

### Textual Amendments

F44 Sch. 1 para. 6A inserted (10.11.1994) by S.I. 1994/2884, art. 2(2)

F45 1984 c.27.

F46 1991 c.40.

F47 Section 63A is inserted by section 44(1) of the Road Traffic Act 1991.

### *Repair and maintenance of vehicles*

- 7 (1) Subject to the following provisions of this paragraph, the repair and the maintenance of any motor vehicle or trailer fall within section 2(2)(g) above.
- (2) The repair of damage caused by an accident does not fall within section 2(2)(g).
- (3) Neither the repair nor the maintenance of a police vehicle falls within section 2(2)(g).

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- (4) In this paragraph “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads or otherwise on land.
- (5) In this paragraph “police vehicle” means (except in relation to Scotland) a vehicle used only in connection with the discharge of the police functions of an authority falling within section 1(1)(e) above or the Common Council of the City of London.
- (6) In this paragraph “police vehicle” means, in relation to Scotland, a vehicle used only in connection with the discharge of the functions of a police authority.
- (7) In this paragraph “trailer” means a vehicle intended or adapted to be drawn by a motor vehicle.

### *Management of vehicles*

- [<sup>F48</sup>7A (1) The following (and only the following) fall within section 2(2)(gg) above—
- (a) arranging for motor vehicles to be available to meet the requirements from time to time of a defined authority;
  - (b) securing that the statutory provisions relating to registration, licensing, safety and insurance are complied with as respects motor vehicles so made available and that the drivers of such vehicles are duly licensed; and
  - (c) arranging for the provision of fuel for, and the cleaning, repair and maintenance of, such vehicles.
- (2) In sub-paragraph (1) above references to motor vehicles do not include references to any which are to be used exclusively for the purposes of a defined authority’s functions as a police or fire authority.
- (3) In this paragraph references to motor vehicles include references to trailers; and “motor vehicle” and “trailer” have the same meanings as in paragraph 7 above.]

#### **Textual Amendments**

**F48** Sch. 1 para. 7A inserted (10.11.1994) by [S.I. 1994/2884](#), [art. 2\(2\)](#)

### *[<sup>F49</sup> Managing sports and leisure facilities*

#### **Textual Amendments**

**F49** Sch. 1 para. 8 added by [S.I. 1989/2488](#), [art. 2\(2\)](#)

- 8 (1) Subject to sub-paragraphs (2) and (3), managing any of the following facilities, including any of those facilities provided in sports centres or leisure centres or on other premises where facilities not mentioned in this sub-paragraph are also provided, falls within section 2(2)(ee) above—
- (a) swimming pools, skating rinks, gymnasia;
  - (b) tennis courts, squash courts, badminton courts, pitches for team games, athletics grounds;
  - (c) tracks and centres for bicycles (whether motorised or not), golf courses, putting greens, bowling greens, bowling centres, bowling alleys;

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- (d) riding centres, courses for horse racing, artificial ski slopes, centres for flying, ballooning or parachuting, and centres for boating or water sports on inland or coastal waters.
- (2) Managing any of the facilities described in sub-paragraph (1) shall not fall within section 2(2)(ee) above if the facilities are provided—
- (a) on premises not predominantly used for sport or physical recreation;
  - (b) on premises occupied by educational institutions.
- (3) Managing any of the facilities described in sub-paragraph (1) shall not fall within section 2(2)(ee) above—
- (a) if that facility is provided—
    - (i) in England or Wales under [<sup>F50</sup>section 508 of the Education Act 1996 (whether or not also provided under [<sup>F51</sup>section 15A or 15B] of that Act)] and whether or not also provided under section 19 of the Local Government (Miscellaneous Provisions) Act 1976; or
    - (ii) in Scotland under section 6 or 17 of the Education (Scotland) Act 1980, whether or not also provided under section 15(2) of the Local Government and Planning (Scotland) Act 1982; and
  - (b)
    - (i) where the facility is on premises on which no other facility described in sub-paragraph (1) is provided, if educational institutions have used it exclusively in the immediately preceding financial year for more than 600 hours; or
    - (ii) where the facility is on premises on which two or more of the facilities described in sub-paragraph (1) are provided, if educational institutions have used exclusively in the immediately preceding financial year facilities of at least half of the descriptions provided (whether concurrently or at different times) and the aggregate periods of their exclusive use in that year of the facilities so described exceeds 600 hours.
- (4) For the purposes of sub-paragraph (1), without prejudice to the generality of the term, “managing” includes arranging—
- (a) for instruction in the sport or other physical recreational activity provided;
  - (b) for supervision of the sport or activity;
  - (c) catering;
  - (d) the hiring out of equipment for use at the facility;
  - (e) the marketing and promotion of the facility;
  - (f) the taking of bookings;
  - (g) the collection of, and accounting for, fees and charges;
  - (h) the physical security of the premises;
  - (j) the cleaning and proper maintenance of the facility other than the external parts of buildings;
- and also includes assuming responsibility for heating, lighting and other service charges in relation to the facility.
- (5) In this paragraph, “educational institutions”—
- in England and Wales, means schools which are [<sup>F52</sup>community, foundations or voluntary schools or community or foundation special schools]; and institutions for the provision of higher or further education, or both, which are either

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maintained by the local education authority or are substantially dependent for their maintenance on assistance from the local education authority; and in Scotland means public schools, or special schools, under the management of the education authority and any other institutions provided and maintained by the education authority for the provision of further education; and in England, Wales and Scotland, for the purposes of sub-paragraph (2)(b) only, includes nursery schools.]

#### Textual Amendments

- F50** Words in [Sch. 1 para. 8\(3\)\(a\)](#) substituted (1.11.1996) by [1996 c. 56, ss. 582\(1\), 583\(2\), Sch. 37 Pt. I para. 68](#) (with [s. 1\(4\)](#))
- F51** Words in [Sch. 1 para. 8\(3\)\(a\)\(i\)](#) substituted (28.7.2000 for specified purposes, 1.4.2001 for E. for all other purposes and 1.4.2001 for W. for all other purposes) by [2000 c. 21, s. 149, Sch. 9 para. 13](#) (with [s. 150](#)); [S.I. 2001/654, art. 2\(2\), Sch. Pt. II](#); [S.I. 2001/1274, art. 2\(1\), Sch. Pt. I](#)
- F52** Words in [Sch. 1 para. 8\(5\)](#) substituted (1.9.1999) by [1998 c. 31, s. 140\(1\), Sch. 30 para. 15](#); [S.I. 1999/2323, art. 2\(1\), Sch. 1](#)

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

- C10** [Sch. 1 para. 8](#) excluded (*temp.* from 5.4.1999 to 1.11.1999) by [S.I. 1999/777, art. 2](#)

#### Housing management

[<sup>F539</sup> (1) Subject to paragraph (2), the following (and only the following) fall within section 2(2)(h) above—

- (a) dealing with applications for local authority housing once a property has been allocated to the applicant until immediately after the tenancy agreement has been entered into, and dealing with assignments under section 92 of the 1985 Act (assignments by way of exchange) or with assignments to another secure tenant by way of exchange under section 55 of the 1987 Act (assignment of secure tenancy) after the landlord has given his consent;
- (b) informing local authority housing tenants of the terms of their tenancies and taking steps to enforce any such terms;
- (c) collecting local authority housing rent and service charges, and service charge loan payments arising from such service charges, keeping a suitable record of the sums collected, collecting any arrears, negotiating an agreement for the payment of any arrears, and monitoring compliance with such an agreement;
- (d) arranging for the vacating of local authority housing once a tenancy or licence has terminated;
- (e) inspecting vacant property, assessing whether works are needed prior to the next letting, ensuring that any such works are carried out and reporting on progress to the landlord;
- (f) taking steps to prevent vandalism and unlawful occupation of vacant property, including ensuring that any necessary works are carried out and reporting on progress to the landlord;
- (g) taking steps to remove unlawful occupants from local authority housing;
- (h) assessing the condition of the common parts of local authority housing, assessing the maintenance, repair, cleaning (including disinfection) and

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- clearance of such parts that is necessary, ensuring that any necessary works are carried out and reporting on progress to the landlord;
- (i) assessing requests for repairs to local authority housing, ensuring that any necessary works are carried out and reporting on progress to the landlord;
  - (j) carrying out inspections and surveys of local authority housing for the purposes of ascertaining—
    - (i) its physical condition or state of repair, or
    - (ii) whether or not such housing is occupied;
  - (k) assessing claims for compensation under regulations made under section 96 of the 1985 Act <sup>F54</sup> or section 60 of the 1987 Act <sup>F55</sup> (right to carry out repairs) and making recommendations to the landlord;
  - (l) assessing applications for payment—
    - (i) under regulations made under section 99A of the 1985 Act or section 58A of the 1987 Act (right to compensation for improvements) <sup>F56</sup>, or
    - (ii) under section 100 of the 1985 Act or section 58 of the 1987 Act (power to reimburse cost of work adding to value of property), and making recommendations to the landlord;
  - (m) operating reception and security services provided at the entrance to local authority housing; and
  - (n) taking action to control any disturbance in local authority housing or to resolve disputes between occupants, including dealing with such bodies (including appropriate dispute resolution agencies) as may be appropriate.
- (2) The activities described in sub-paragraphs (1)(a), (d), (g) and (j)(ii) do not fall within section 2(2)(h) above where they relate to a tenancy or prospective tenancy if—
- (a) the tenant is not an individual or, as the case may be, all the tenants are not individuals; or
  - (b) the tenancy is—
    - (i) a long tenancy within the meaning of section 115 of the 1985 Act,
    - (ii) a lease granted in pursuance of the right to acquire on rent to mortgage terms conferred by Part V of the 1985 Act,
    - (iii) a lease granted on payment of a premium calculated by reference to a percentage of the value of the demised premises or the cost of providing them, or
    - (iv) a lease under which the tenant (or his personal representatives) will or may be entitled to a sum calculated by reference, direct or indirect, to the value of the demised premises.
- (3) In this paragraph—
- “the 1985 Act” means the Housing Act 1985 <sup>F57</sup>;
- “the 1987 Act” means the Housing (Scotland) Act 1987 <sup>F58</sup>;
- [<sup>F59</sup>“introductory tenancy” has the same meaning as in Chapter 1 of Part V of the Housing Act 1996;]
- “local authority housing” means housing accommodation provided by a local authority under Part II of the 1985 Act, or, as regards Scotland, under Part I of the 1987 Act, including—
- (i) garages, parking spaces and outhouses provided in connection with such housing accommodation and usually enjoyed with it, and

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- (ii) common parts of buildings containing two or more dwelling-houses, but excluding hostels as defined in section 622 of the 1985 Act or section 2(5) of the 1987 Act;
- “secure tenancy” has the same meaning as in section 79 of the 1985 Act or section 44 of the 1987 Act (secure tenancies);
- “service charge” means an amount payable by a tenant of premises which is payable, directly or indirectly, for services, repairs, maintenance or insurance or the landlord’s costs of management;
- “tenancy” has the same meaning as in section 621 of the 1985 Act or section 82 of the 1987 Act, and also includes a secure tenancy [<sup>F60</sup>and an introductory tenancy], and “tenant” shall be construed accordingly; and
- “vacant property” means housing accommodation provided by a local authority (including garages, parking spaces and outhouses provided in connection with such housing accommodation and usually enjoyed with it) which is unoccupied, whether by reason of the termination of a secure tenancy [<sup>F61</sup>or an introductory tenancy] or otherwise.]

#### Textual Amendments

- F53** Sch. 1 para. 9 inserted (23.6.1994) by S.I. 1994/1671, art. 2(2)
- F54** Section 96 was substituted by section 121 of the Leasehold Reform, Housing and Urban Development Act 1993 (c.28).
- F55** Section 60 was substituted by section 146 of the Leasehold Reform, Housing and Urban Development Act 1993
- F56** Section 99A was inserted by section 122 of the Leasehold Reform, Housing and Urban Development Act 1993; section 58A was inserted by section 147 of that Act; section 100 was amended by paragraph 16(1) and (2) of Schedule 3 to the Housing and Planning Act 1986 (c.63) and paragraph 66 of Schedule 11 to the Local Government and Housing Act 1989 (c.42).
- F57** 1985 c.68.
- F58** 1987 c.26.
- F59** Sch. 1 para. 9(3): definition of “introductory tenancy” inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 4(a)
- F60** Sch. 1 para. 9(3): words in definition of “tenancy” inserted (12.2.1997) by S.I. 1997/74, art. 2, para. 4(b)
- F61** Sch. 1 para. 9(3): words in definition of “vacant property” inserted (12.2.1997) by S.I. 1997/74, art. 2, Sch. para. 4(c)

#### Security work

- [<sup>F62</sup>10 (1) The following (and only the following) fall within section 2(2)(i) above—
- (a) operating security controls in relation to persons entering or leaving land which is occupied by a defined authority or in which such an authority has an interest, or moving between different parts of such land; and
  - (b) operating security patrols in respect of such land.
- (2) In sub-paragraph (1) above the references to land which is occupied by a defined authority or in which such an authority has an interest do not include references to—
- (a) any library, museum or art gallery;
  - (b) any police establishment; or
  - (c) in the case of the references in paragraph (a), any dwelling or residential establishment.



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(3) In sub-paragraph (2) above the reference to a library, museum or art gallery is a reference to—

- (a) one maintained under the Public Libraries and Museums Act 1964 <sup>F63</sup>; or
- (b) one established under the Public Libraries Consolidation (Scotland) Act 1887 <sup>F64</sup>, or one to which that Act applies.

[ In sub-paragraph (2) above “police establishment” means a building or part of a <sup>F65</sup>(3A) building used by police for the performance of their functions (whether as a police station or police training establishment or otherwise).]

(4) In sub-paragraph (2) above <sup>F66</sup>. . ., “dwelling” and, subject to sub-paragraph (5) below, “residential establishment” have the same meanings as in paragraph 2(2) above.

(5) In sub-paragraph (2) above “residential establishment” includes, in relation to Scotland, a hostel provided under section 13 of the Education (Scotland) Act 1980 <sup>F67</sup>.]

#### Textual Amendments

- F62** Sch. 1 para. 10 inserted (10.11.1994) by S.I. 1994/2884, art. 2(4)
- F63** 1964 c.75.
- F64** 1887 c.42.
- F65** Sch. 1 para. 10(3A) inserted (20.7.1995) by S.I. 1995/1915, art. 3(3)
- F66** Words in Sch. 1 para. 10(4) omitted (20.7.1995) by S.I. 1995/1915, art. 3(4)
- F67** 1980 c.44.

#### Legal services

[<sup>F68</sup>11 (1) The provision of legal services by legal staff falls within section 2(2)(j) above.

(2) For the purposes of sub-paragraph (1) above, without prejudice to the generality of the term, “legal services” includes—

- (a) legal advice to any of the following, namely—
  - (i) a defined authority or its elected members;
  - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
  - (iii) any officer or department of a defined authority;
- (b) legal advice to any other person in relation to the discharge of any functions of a defined authority;
- (c) legal work in or in connection with any criminal or civil proceedings before any court or tribunal or at any inquiry;
- (d) conveyancing work in relation to property of any kind;
- (e) legal work in connection with any of the following, namely—
  - (i) contracts or agreements of any kind;
  - (ii) matters relating to property of any kind;
  - (iii) a defined authority’s insurance arrangements;

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- (iv) statutory orders, notices and byelaws and, in Scotland, management rules under sections 112 to 118 of the Civic Government (Scotland) Act 1982 <sup>F69</sup>; and
  - (v) local or personal Bills or, in Scotland, private legislation within the meaning of section 82 of the Local Government (Scotland) Act 1973 <sup>F70</sup>; and
  - (f) legal work in connection with the provision of a legal service for a defined authority otherwise than by a member of its own staff.
- (3) In sub-paragraph (1) above “legal staff” means any of the following, or any person under their management or control, namely—
- (a) solicitors, legal executives, barristers and advocates;
  - (b) licensed conveyancers within the meaning of the Administration of Justice Act 1985 <sup>F71</sup>; and
  - (c) qualified conveyancers within the meaning of section 23 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 <sup>F72</sup>.]

#### Textual Amendments

**F68** Sch. 1 para. 11 inserted (10.11.1994) by S.I. 1994/2884, art. 2(4)

**F69** 1982 c.45.

**F70** 1973 c.65.

**F71** 1985 c.61.

**F72** 1990 c.40.

#### *Construction and property services*

- [<sup>F73</sup>12 (1) The provision of construction and property services in connection with the development, maintenance or management of relevant land falls within section 2(2) (k) above.
- (2) For the purposes of sub-paragraph (1) above, “construction and property services” means services in any of the following fields, namely—
- (a) architecture (including landscape architecture);
  - (b) engineering;
  - (c) valuation;
  - (d) property management; and
  - (e) surveying (including quantity and building surveying), being services which fall within sub-paragraph (3) below and are not excluded by sub-paragraph (4) below.
- (3) Services fall within this sub-paragraph if they consist of or are provided for the purposes of, or in connection with, any of the following, namely—
- (a) the giving of advice to any of the following—
    - (i) a defined authority or its elected members;
    - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
    - (iii) any officer or department of a defined authority;

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- (b) the giving of advice to any other person in relation to the discharge of any functions of a defined authority;
  - (c) the establishment and management of capital and revenue programmes for the development and maintenance of relevant land;
  - (d) the design and planning of development projects and maintenance work, including feasibility studies, investigatory work and the preparation of plans, costings and reports;
  - (e) the management of such projects and such work, including finance and contract management;
  - (f) the management of relevant land, excluding the management of local authority housing (as defined in paragraph 9 above); and
  - (g) the procuring, monitoring or supervision of, or the arranging of payment for, any services which fall within paragraphs (a) to (f) above and are provided for a defined authority by any person.
- (4) The following services are excluded by this sub-paragraph–
- (a) any services provided in pursuance of section 6 of the Highways Act 1980 <sup>F74</sup> (delegation etc of functions with respect to trunk roads) or in pursuance of section 4 of the Roads (Scotland) Act 1984 <sup>F75</sup> (agreements between authorities); and
  - (b) any services provided for the purposes of, or in connection with, sewerage functions carried out on behalf of sewerage undertakers in pursuance of arrangements entered into for the purposes of section 97 of the Water Industry Act 1991 <sup>F76</sup>.
- (5) The following are “relevant land” for the purposes of this paragraph–
- (a) land which is occupied by a defined authority;
  - (b) land in which such an authority has or is seeking to acquire an interest;
  - (c) land for the maintenance or management of which such an authority assumes responsibility by agreement;
  - (d) highways for which such an authority is the highway authority and which are maintainable at the public expense; and
  - (e) public roads within the meaning of the Roads (Scotland) Act 1984 in relation to which such an authority is the local roads authority.]

#### Textual Amendments

**F73** Sch. 1 para. 12 inserted (11.11.1994) by S.I. 1994/2888, art. 2(2)

**F74** 1980 c. 66

**F75** 1984 c. 54

**F76** 1991 c. 56

#### *FINANCIAL SERVICES*

- <sup>F77</sup>13 (1) The provision of services consisting of, or provided for the purposes of, or in connection with, any of the following, (and only the following) falls within section 2(2)(1) above, namely
- (a) financial advice to any of the following, namely—
    - (i) a defined authority or its elected members;

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- (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
  - (iii) any officer or department of a defined authority;
  - (b) financial advice to any other person in relation to the discharge of any functions of a defined authority;
  - (c) accounting services including, in particular, the completion of statutory accounts and the maintenance of appropriate financial records;
  - (d) the administration of direct and indirect taxation for a defined authority;
  - (e) the development and maintenance of financial information and management systems;
  - (f) audit services including, in particular, liaison with external auditors and other appropriate bodies;
  - (g) the administration, collection and recovery of non-domestic rates, council tax, water and sewerage charges or rates, community charges and general rates;
  - (h) the provision of payroll facilities;
  - (i) subject to sub-paragraph (2) below, the determination, administration and making of payments, including arranging abatements and rebates;
  - (j) the collection of income and the recovery of debts;
  - (k) the administration of a defined authority's pension fund including, in particular, the management of investments and actuarial services;
  - (l) the arrangement and management of borrowing and investment and the monitoring of cash-flow;
  - (m) the administration of a defined authority's insurance arrangements;
  - (n) financial consultancy work including, in particular, research;
  - (o) the procurement, monitoring or supervision of, or the arranging of payment for, any services which fall within paragraphs (a) to (n) above and are provided for a defined authority by any person.
- (2) The activities described in sub-paragraph (1)(i) above do not fall within section 2(2) (1) above where they relate to
- (a) mandatory and discretionary awards made pursuant to the Education Act 1962 <sup>F78</sup>;
  - (b) education maintenance allowances payable pursuant to the Scholarship and Other Benefits Regulations 1977 <sup>F79</sup> or bursaries, scholarships or other allowances payable pursuant to section 49 of the Education (Scotland) Act 1980 <sup>F80</sup>;
  - (c) clothing grants payable pursuant to section 5 of the Education (Miscellaneous Provisions) Act 1948 <sup>F81</sup> or section 54 of the Education (Scotland) Act 1980;
  - (d) free school meals and milk provided pursuant to section 22 of the Education Act 1980 <sup>F82</sup> or section 53 of the Education (Scotland) Act 1980; or
  - (e) board and lodging fees payable pursuant to section 111 of the Education Reform Act 1988 <sup>F83</sup> or section 52 of the Education (Scotland) Act 1980.]

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#### Textual Amendments

- F77 Sch. 1 para. 13 inserted (20.7.1995) by S.I. 1995/1915, art. 4
- F78 1962 c.12.
- F79 S.I. 1977/1443.
- F80 1980 c.44.
- F81 1948 c.40.
- F82 1980 c.20.
- F83 1988 c.40.

### INFORMATION TECHNOLOGY SERVICES

- <sup>F84</sup>14 (1) The provision of information technology services falls within section 2(2)(m) above.
- (2) For the purposes of sub-paragraph (1) above, “information technology services” means services which are designed to secure for a defined authority the availability or application of information technology.
- (3) Without prejudice to the generality of sub-paragraph (2) above, information technology services include services which consist of or are provided for the purposes of, or in connection with, any of the following
- (a) giving advice in relation to information technology to any of the following—
    - (i) a defined authority or its members;
    - (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
    - (iii) any officer or department of a defined authority;
  - (b) giving advice to any person as to the application of information technology;
  - (c) assessing a defined authority’s requirements for information technology, and keeping those requirements under review, including appraising any such technology for the time being in use;
  - (d) arranging for information technology to be available to meet the requirements of a defined authority;
  - (e) developing information technology;
  - (f) maintaining equipment used in connection with information technology.
- (4) In this paragraph “information technology” means any computer, telecommunications or other technology the principal use of which is the recording, processing and communication of information by electronic means.

#### Textual Amendments

- F84 Sch. 1 para. 14 inserted (20.7.1995) by S.I. 1995/1915, art. 4

### PERSONNEL SERVICES

- <sup>F85</sup>15 (1) Provision of the following services (and only the following) falls within section 2(2)(n) above—
- (a) personnel advice to any of the following, namely —
    - (i) a defined authority or its elected members;

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- (ii) any committee or sub-committee of a defined authority, or any other group of persons which reports to such an authority, committee or sub-committee; and
  - (iii) any officer or department of a defined authority;
  - (b) personnel advice to any other person in relation to the discharge of any functions of a defined authority;
  - (c) conducting organisational and method studies and work studies including, in particular, conducting management service reviews and preparing business plans;
  - (d) human resource management including, in particular, recruitment, monitoring, assessment and appraisal;
  - (e) personnel research;
  - (f) developing and maintaining statistical and managerial information systems;
  - (g) subject to sub-paragraph (2) below, training a defined authority's employees including, in particular, arranging, monitoring and evaluating training and development programmes;
  - (h) developing and maintaining employee relations policies, practices and procedures;
  - (i) personnel work in connection with any of the following, namely
    - (i) pay and other employee benefits including, in particular, superannuation benefits;
    - (ii) terms and conditions of employment;
    - (iii) health and safety policies and procedures;
    - (iv) employee welfare policies and procedures including, in particular, occupational health services; and
    - (v) redundancy arrangements and agreements;
  - (j) procuring, monitoring or supervising any services which fall within paragraphs (a) to (i) above and are provided for a defined authority by any person.
- (2) The activities described in sub-paragraph (1)(g) above do not fall within section 2(2)(n) above where they relate to—
- (a) the ordinary supervision of trainees or other employees; or
  - (b) the training of fire-fighting members of fire brigades.

#### Textual Amendments

**F85** Sch. 1 para. 15 inserted (20.7.1995) by S.I. 1995/1915, art. 4

<sup>F86</sup>SCHEDULE 2 E+W+S

Section 17(2)

### PUBLIC SUPPLY OR WORKS CONTRACTS: THE PUBLIC AUTHORITIES

#### Textual Amendments

**F86** Words in Sch. 2 substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 1 para. 65](#); S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

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

- C11** Sch. 2 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 25(c)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

*Public authorities*

A local authority.

[<sup>F87</sup> An executive of a local authority (within the meaning of Part II of the Local Government Act 2000).]

**Textual Amendments**

- F87** Words in Sch. 2 inserted (11.7.2001 for E., 1.4.2002 for W.) by **The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (England) Order 2001 (S.I. 2001/2237), art. 18(2)** and **The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002 (S.I. 2002/808), art. 17(2)**

[<sup>F88</sup> The Greater London Authority.]

**Textual Amendments**

- F88** Words in Sch. 2 inserted (8.5.2000) by 1999 c. 29, **s. 80** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

An urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980.

A development corporation established for the purposes of a new town.

[<sup>F89</sup> The Homes and Communities Agency so far as exercising functions in relation to anything transferred (or to be transferred) to it as mentioned in section 52(1)(a) to (d) of the Housing and Regeneration Act 2008.]

**Textual Amendments**

- F89** Words in Sch. 2 substituted (1.12.2008) by **Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 8 para. 43; S.I. 2008/3068, art. 2(1)(w)(3)** (with arts. 6-13)

[<sup>F90</sup> A police authority established under [<sup>F91</sup> section 3 of the Police Act 1996].]

**Textual Amendments**

- F90** Entry in Sch. 2 substituted (1.10.1994 for specified purposes and otherwise 1.4.1995) by 1994 c. 29, **s. 43, Sch. 4 Pt. I para. 32; S.I. 1994/2025, art. 6(1)(3)-(6); S.I. 1994/3262, art. 4, Sch.**  
**F91** Words in Sch. 2 substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 1(2)(za)**

[<sup>F92</sup> The Metropolitan Police Authority.]

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#### Textual Amendments

**F92** Entry in Sch. 2 inserted (3.7.2000) by 1999 c. 29, s. 325, **Sch. 27 para. 57** (with Sch. 12 para. 9(1)); S.I. 2000/1648, art. 2, **Sch.**

A [<sup>F86</sup>fire authority constituted by a combination scheme][<sup>F86</sup>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] and a metropolitan county fire and civil defence authority.

[<sup>F93</sup>The London Fire and Emergency Planning Authority.]

#### Textual Amendments

**F93** Words in Sch. 2 substituted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 Pt. I para. 50** (with Sch. 12 para. 9(1)); S.I. 2000/1094, art. 4(a)(h)

A metropolitan county passenger transport authority.

An authority established by an order under section 10(1) of the Local Government Act 1985 (waste disposal).

[<sup>F94</sup>An authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities).]

#### Textual Amendments

**F94** Words in Sch. 2 inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 13 para. 43**; S.I. 2008/917, art. 2(1)(p)

F95 . . . . . F96

#### Textual Amendments

**F95** Words in Sch. 2 repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 110, **Sch. 21 Pt. II**; S.I. 1994/507, art. 4, **Sch. 2**, Appendix

**F96** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

F97 . . . . .

#### Textual Amendments

**F97** Words in Sch. 2 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**

F98 . . . . .



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**Textual Amendments**

**F98** Words repealed by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 1, 3(1)(3), s. 72(3), Sch. 2 para. 17, [Sch. 10](#)

The Broads Authority.

[<sup>F99</sup>Any National Park authority]

**Textual Amendments**

**F99** Words in Sch. 2 inserted (19.9.1995) by [1995 c. 25](#), ss. 65(7), 125(2), [Sch. 8 para. 8\(3\)](#)

**F100**  
...

**Textual Amendments**

**F100** Words in Sch. 2 repealed (1.4.1997) by [1995 c. 25](#), s. 120(3), [Sch. 24](#) (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, [Sch.](#)

**F100**  
...

[<sup>F101</sup>The Strathclyde Passenger Transport Authority.]

**Textual Amendments**

**F101** Words in Sch. 2 inserted (S.) (1.4.1996) by [1994 c. 39](#), s. 180(1), [Sch. 13 para. 156\(6\)\(a\)](#); S.I. 1996/323, art. 4(1)(b)(c)

[<sup>F102</sup>A National Park authority in Scotland].

**Textual Amendments**

**F102** Words in Sch. 2 inserted (S.) (8.9.2000) by [2000 asp 10](#), ss. 36, 37(1), [Sch. 5 para. 13](#) (with s. 32); S.S.I. 2000/312, art. 2

[<sup>F103</sup>A Transport Partnership created under the Transport (Scotland) Act 2005 (asp 12)]

**Textual Amendments**

**F103** Words in Sch. 2 inserted (S.) (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), s. 54(2), [sch. 1 para. 16\(4\)](#); S.S.I. 2005/454, art. 2, sch. 2

[<sup>F104</sup>A joint planning board constituted under section 2(1B) of the <sup>M43</sup>Town and Country Planning Act 1990.

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#### Textual Amendments

**F104** Words in Sch. 2 inserted (1.4.1996) by 1994 c. 19, s. 20(4), **Sch. 6 Pt. II para. 20** (with ss. 54(7), 55(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1996/396, art. 3, **Sch. 1**

#### Marginal Citations

**M43** 1990 c. 8.

<sup>F100</sup> . . .]

A Passenger Transport Executive, that is to say, any body constituted as such an Executive for a passenger transport area for the purposes of Part II of the <sup>M44</sup>Transport Act 1968.

#### Marginal Citations

**M44** 1968 c. 73.

[<sup>F105</sup>A local probation board established under section 4 of the Criminal Justice and Court Services Act 2000]

#### Textual Amendments

**F105** Words in Sch. 2 substituted (1.4.2001) by 2000 c. 43, s. 74, **Sch. 7 para. 82**; S.I. 2001/919, art. 2(f)(ii)

[<sup>F106</sup>A probation trust.]

#### Textual Amendments

**F106** Words in Sch. 2 inserted (1.4.2008) by *The Offender Management Act 2007 (Consequential Amendments) Order 2008* (S.I. 2008/912), art. 1, **Sch. 1 para. 8(2)**

A joint committee discharging under section 101 of the <sup>M45</sup>Local Government Act 1972 functions of local authorities (within the meaning of that section).

#### Marginal Citations

**M45** 1972 c. 70.

### *Interpretation*

In the application of this Schedule to England and Wales, “local authority” means—

- (a) a county council, a district council, a London borough council, a parish council, a community council or the Council of the Isles of Scilly;
- (b) the Common Council of the City of London in its capacity as local authority or police authority;

and includes a residuary body established by Part VII of the <sup>M46</sup>Local Government Act 1985.

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**Marginal Citations**

**M46** 1985 c. 51.

In the application of this Schedule to Scotland—

- (a) “local authority” means a [<sup>F107</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or any joint board or joint committee within the meaning of the <sup>M47</sup>Local Government (Scotland) Act 1973, and

<sup>F108</sup>(b) .....

**Textual Amendments**

**F107** Words in Sch. 2 substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(6)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F108** Sch. 2: words in definition of “water development board” repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**

**Marginal Citations**

**M47** 1973 c. 65.

**Textual Amendments**

**F107** Words in Sch. 2 substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 156(6)(b)**; S.I. 1996/323, **art. 4(1)(b)(c)**

**F108** Sch. 2: words in definition of “water development board” repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(a), **Sch. 1**

**Marginal Citations**

**M46** 1985 c. 51.

**M47** 1973 c. 65.

LOCAL GOVERNMENT ADMINISTRATION

*Local Government Act 1974 (c. 7)*

1 Part III of the Local Government Act 1974 (local government administration) shall be amended as mentioned in paragraphs 2 to 10 below.

2 (1) In section 23(12) (Commissions to review operation of certain provisions in each financial year) for the words from “The Commissions” to “local authorities” there shall be substituted “In the financial year beginning on 1st April 1990, and in every third financial year afterwards, the Commissions shall review the operation (since the last review was made under this subsection) of the provisions of this Part of this Act about the investigation of complaints, and shall have power to convey to authorities to which this Part of this Act applies”.

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- (2) Section 23(12) shall not require a review in the financial year in which this Schedule comes into force; but the review in the financial year beginning on 1st April 1990 must relate to the operation of the provisions mentioned in section 23(12) since the last review was made under section 23(12) as unamended.
- 3 (1) Section 24 (representative bodies) shall be amended as follows.
  - (2) For subsection (6) (representative bodies to arrange for publication of reports) there shall be substituted—
    - “(6) Each Commission shall arrange for the publication of the report submitted by them under subsection (4) above and of the reports of which copies are submitted by them under subsection (5) above.”
  - (3) In subsection (7) for “local authorities” there shall be substituted “authorities to which this Part of this Act applies”.
  - (4) For subsection (8) there shall be substituted—
    - “(8) Before arranging for the publication of a report under subsection (6) above the Commission concerned shall give a reasonable opportunity for the appropriate representative body to comment on it, and if any comments are made shall (when arranging for the report to be published) arrange for it to be published with an annex containing such of the comments as the body think appropriate.”
  - (5) Sub-paragraphs (2) and (4) above apply to any report submitted under section 24(4) after the coming into force of this Schedule and to any report a copy of which is submitted under section 24(5) after the coming into force of this Schedule.
- 4 In section 25(1) (authorities subject to investigation) after “applies to” there shall be inserted “the following authorities” and the following shall be inserted after paragraph (b)—
  - “(ba) the Commission for the New Towns,
  - (bb) any development corporation established for the purposes of a new town,
  - (bc) the Development Board for Rural Wales,
  - (bd) any urban development corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980.”
- 5 (1) Section 26 (matters subject to investigation) shall be amended as follows.
  - <sup>F109</sup>(2) .....
  - <sup>F110</sup>(3) .....
  - (4) In subsection (7) for “area of the authority concerned” there shall be substituted “following area—
    - (a) where the complaint relates to the Commission for the New Towns, the area of the new town or towns to which the complaint relates;
    - (b) where the complaint relates to the Development Board for Rural Wales, the area in Wales for which the Board is for the time being responsible;
    - (c) in any other case, the area of the authority concerned.”

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- (5) In subsection (9) (power to exclude from matters not subject to investigation) for “exclude from the provisions of that Schedule” there shall be substituted “add to or exclude from the provisions of that Schedule (as it has effect for the time being)”.

F111(6) .....

F112(7) .....

**Textual Amendments**

- F109** Sch. 3 para. 5(2) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(v)(ii)
- F110** Sch. 3 para. 5(3) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(v)(ii)
- F111** Sch. 3 para. 5(6) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(v)(ii)
- F112** Sch. 3 para. 5(7) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 18 Pt. 14**; S.I. 2008/917, art. 2(v)(ii)

- 6 (1) Section 30 (reports on investigations) shall be amended as follows.
- (2) After subsection (4) there shall be inserted—
- “(4A) Subject to subsection (7) below, the authority concerned shall supply a copy of the report to any person on request if he pays such charge as the authority may reasonably require.”
- (3) In subsection (5) (not later than one week after receiving report, authority to give public notice of date from which report is available for inspection)—
- (a) for “one week” there shall be substituted “two weeks”,
- (b) for “the report will be available for inspection as provided by subsection (4)” there shall be substituted “copies of the report will be available as provided by subsections (4) and (4A)”, and
- (c) for “after the giving of the public notice” there shall be substituted “not more than one week after the public notice is first given”.
- (4) In subsection (7) (Local Commissioner may direct that report shall not be subject to certain provisions) for “and (5) above about its publication” there shall be substituted “, (4A) and (5) above”.
- (5) This paragraph applies to any report received by an authority in pursuance of section 30(1)(c) after the coming into force of this Schedule.
- 7 (1) Section 31 (reports: further provisions) shall be amended as follows.
- (2) ..... **F113**
- (4) In subsection (3)(b) for “referred to in the report” there shall be substituted “to which the report relates”.
- (5) This paragraph applies where any report is made after the coming into force of this Schedule.

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**Textual Amendments**

**F113** Sch. 3 paras. 7(2)(3), 15(a) repealed by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), s. 194(4), [Sch. 12 Pt. II](#) Note 3

- 8 (1) Section 32 (defamation and disclosure) shall be amended as follows.
  - (2) In subsection (1)(a) after “member” there shall be inserted “or officer”.
  - (3) In subsection (1)(c) after “public” there shall be inserted “or in supplying a copy under section 30(4A) above”.
  - (4) This paragraph applies to any publication after the coming into force of this Schedule.
- 9 (1) In paragraph 4(5) of Schedule 4 (functions of a Local Commissioner, other than that of making a report, may be performed by an officer) the words “, other than that of making any report,” shall be omitted.
  - (2) This paragraph applies to the making of any report after the coming into force of this Schedule, whether or not the making was begun by a Local Commissioner before the coming into force.
- 10 The following shall be inserted at the end of Schedule 5 (matters not subject to investigation)—
  - “6 Action taken by an authority mentioned in section 25(1)(ba), (bb) or (bc) of this Act which is not action in connection with functions in relation to housing.
  - 7 Action taken by an authority mentioned in section 25(1)(bd) of this Act which is not action in connection with functions in relation to town and country planning.”

*Local Government (Scotland) Act 1975 (c. 30)*

11 **F114** .....

**Textual Amendments**

**F114** Sch. 3 paras. 11-17 repealed (23.10.2002) by [The Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 10](#); S.S.I. 2002/467, [art. 2](#)

12 **F115** .....

**Textual Amendments**

**F115** Sch. 3 paras. 11-17 repealed (23.10.2002) by [The Scottish Public Services Ombudsman Act 2002 \(asp 11\)](#), s. 25, [Sch. 6 para. 10](#); S.S.I. 2002/467, [art. 2](#)

13 **F116** .....

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**Textual Amendments**

**F116** Sch. 3 paras. 11-17 repealed (23.10.2002) by The Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 10**; S.S.I. 2002/467, **art. 2**

14 **F117** .....

**Textual Amendments**

**F117** Sch. 3 paras. 11-17 repealed (23.10.2002) by The Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 10**; S.S.I. 2002/467, **art. 2**

15 **F118** .....

**Textual Amendments**

**F118** Sch. 3 paras. 11-17 repealed (23.10.2002) by The Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 10**; S.S.I. 2002/467, **art. 2**

16 **F119** .....

**Textual Amendments**

**F119** Sch. 3 paras. 11-17 repealed (23.10.2002) by The Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 10**; S.S.I. 2002/467, **art. 2**

17 **F120** .....

**Textual Amendments**

**F120** Sch. 3 paras. 11-17 repealed (23.10.2002) by The Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 10**; S.S.I. 2002/467, **art. 2**

**Textual Amendments**

**F121** Sch. 4 repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**

**Marginal Citations**

**M48** 1982 c. 32.

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SCHEDULE 5 **E+W**

Section 31.

## LAND HELD BY PUBLIC BODIES

- 1 Part X of the <sup>M49</sup>Local Government, Planning and Land Act 1980 shall be amended as mentioned in the following provisions of this Schedule.

**Marginal Citations**

**M49** 1980 c. 65.

PROSPECTIVE

- 2 (1) The following shall be inserted after section 96—

**“96A Information about entries.**

- (1) Where land is entered on a register under section 95(3) above, the Secretary of State shall as soon as is reasonably practicable after entering the land send a copy of the information included in the register in relation to the land to any body to whom this Part of this Act applies, if it appears from the register that the body or a subsidiary of the body owns a freehold or leasehold interest in the land.
  - (2) Where land is entered on a register under section 95(3) above and the Secretary of State amends the information included in the register in relation to the land, he shall as soon as is reasonably practicable after amending the information send a copy of the amended information to any body to whom this Part of this Act applies, if it appears from the register that the body or a subsidiary of the body owns a freehold or leasehold interest in the land.
  - (3) The fact that the Secretary of State must send anything to a council under section 96 above does not displace any duty of his to send anything to the council under subsection (1) or (2) above.
  - (4) Subsection (5) below applies where a copy sent under subsection (1) or (2) above has been received by a body.
  - (5) If at any time the body becomes aware that any information in the only or latest copy received by them is or has become inaccurate, they shall as soon as is reasonably practicable after becoming so aware inform the Secretary of State that the information is inaccurate and give him (so far as they are able) the corrected information.
  - (6) Subsection (5) above does not apply if, when the body becomes so aware, the land concerned is no longer entered on a register under section 95(3) above.”
- (2) Section 96A(1) and (2) apply whether the land was entered on the register before or after the coming into force of this paragraph; and in its application to land entered on the register before the coming into force of this paragraph section 96A(1) shall have effect as if for the words “entering the land” there were substituted the words “the coming into force of paragraph 2 of Schedule 5 to the Local Government Act 1988.”



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- 3 The following shall be substituted for section 97 (Secretary of State’s power to require information)—

**“97 Secretary of State’s power to require information.**

- (1) The Secretary of State may direct a body to whom this Part of this Act applies to inform him whether the body or a subsidiary of the body holds a freehold or leasehold interest in land which is specified, or is of a description specified, in the direction.
- (2) A body need only comply with a direction under subsection (1) above as regards land which is situated in an area in relation to which this Part of this Act is in operation.
- (3) Where a body to whom this Part of this Act applies or a subsidiary of such a body holds a freehold or leasehold interest in land situated in an area in relation to which this Part of this Act is in operation, the Secretary of State may direct the body to whom this Part of this Act applies to give him such information about the land as he may specify.”

- 4 (1) Section 98 (directions to dispose of land) shall be amended as follows.

- (2) After subsection (2) there shall be inserted—

“(2A) A direction under this section may include provision that no disposal of an interest to which the direction relates shall, while the direction remains unrevoked, be made in favour of a person or body who—

- (a) is specified, or is of a description specified, in the direction, and
- (b) is at the date the disposal is proposed to be made associated with the body to whom the direction is given.”

- (3) After subsection (5) there shall be inserted—

“(6) In subsection (2A) above references to a disposal of an interest include references to a contract to dispose of an interest, and references to making a disposal include references to entering into such a contract.

- (7) For the purposes of subsection (2A) above a person is associated with a body if (but only if)—

- (a) he is a member of the body or of a subsidiary of the body, or
- (b) he is a nominee of the body or of a subsidiary of the body.

- (8) For the purposes of subsection (2A) above a body is associated with another body if (but only if)—

- (a) the other body, or a subsidiary of the other body, is a member of it,
- (b) any of its members is also a member of the other body or of a subsidiary of the other body, or
- (c) any of its members is a nominee of the other body or of a subsidiary of the other body.

- (9) Notwithstanding section 100(1) below, in subsections (7) and (8) above “subsidiary” has the same meaning as in section 736(1) of the Companies Act 1985.”

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- (4) No direction may be varied under section 98(3) so as to include provision mentioned in section 98(2A) if the direction sought to be varied was given before the coming into force of this paragraph.
- 5 (1) Section 99 (directions: supplementary) shall be amended as follows.
- (2) After subsection (5) there shall be inserted—
- “(5A) The Secretary of State need not give notice under subsection (1) above as regards a further direction revoking a previous direction given under section 98 above.
- (5B) The Secretary of State need not give notice under subsection (1) above as regards a further direction varying a previous direction given under section 98 above if—
- (a) the variation consists only of one which omits part of the land to which the previous direction relates, or
- (b) the variation is stated in the further direction to consist only of one which is made to take account of a representation of the body to whom the previous direction was given.
- (5C) The contents of a direction under section 98 above may differ from its proposed contents contained in a notice given under subsection (1) above if—
- (a) the difference consists only of a variation which omits part of the land referred to in the proposed contents, or
- (b) the difference is stated in the direction to consist only of a variation which is made to take account of a representation of the body to whom the notice was given;
- and the words “as proposed” in subsection (3) above shall have effect accordingly.
- (5D) The Secretary of State may by order made by statutory instrument substitute a period specified in the order for the period of 42 days specified in subsection (3) above or for such other period as is for the time being specified in that subsection by virtue of an order under this subsection.
- (5E) No order under subsection (5D) above may substitute a period as regards a notice given before the coming into force of the order.”
- (3) In subsection (6)(b) for “section” there shall be substituted “subsection”.
- (4) In subsection (7) after “subsection” there shall be inserted “(5D) or”.
- (5) Section 99(5A) and (5B) apply whether the previous direction was given before or after the coming into force of this paragraph; and section 99(5C) applies whether the notice was given before or after the coming into force of this paragraph.
- 6 The following shall be inserted after section 99—

**“99A Power of entry.**

- (1) A person duly authorised in writing by the Secretary of State may at any reasonable time enter any land for the purpose of helping the Secretary of

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State to decide whether to give a direction under section 98 above in relation to the land.

- (2) A person may not enter land under this section unless, at the time of the authorisation under subsection (1) above, at the time of the entry, and at all times between the authorisation and the entry, the land is entered on a register maintained under section 95 above.
- (3) A person may not enter land under this section unless at least 21 clear days' notice in writing of the intended entry has been given to every person who is an owner or occupier.
- (4) In this section "owner", in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes also a person holding, or entitled to the rents and profits of, the land under a lease or agreement."

F122 SCHEDULE 6 S

Section 32.

**Textual Amendments**

F122 Sch. 6 repealed (1.4.2003) by Local Government in Scotland Act 2003 (asp 1), ss. 60(1)(f), 62(2); S.S.I. 2003/134, art. 2(1), sch.

SCHEDULE 7 E+W+S

Section 41.

REPEALS

PART I E+W+S

PUBLIC SUPPLY OR WORKS CONTRACTS

Chapter	Short title	Extent of repeal
1985 c. 68.	Housing Act 1985.	Section 52(a).
1987 c. 26.	Housing (Scotland) Act 1987.	Section 337.

These repeals shall have effect in accordance with section 23 of this Act.

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## PART II **E+W+S**

### LOCAL GOVERNMENT ADMINISTRATION

Chapter	Short title	Extent of repeal
1974 c. 7.	Local Government Act 1974.	In Schedule 4, in paragraph 4(5) the words “, other than that of making any report,”.
1975 c. 30.	Local Government (Scotland) Act 1975.	In section 28(7) the words “about its publication”.  In Schedule 4, in paragraph 4(3) the words “, other than that of making any report,”.

These repeals shall have effect in accordance with section 29 of and Schedule 3 to this Act.

## PART III **E+W+S**

### DIRECT LABOUR ORGANISATIONS

Chapter	Short title	Extent of repeal
1980 c. 65.	Local Government, Planning and Land Act 1980.	In section 13, subsections (2) (a) and (3).  In section 16, subsections (4) to (6).  Section 17.  In section 19, in subsection (1) the words “other than the reference in section 16(4)(b) above”, and subsections (3) and (4).  In section 20, in subsection (1), in paragraph (a) of the definition of “development body”, sub-paragraph (iii) and the word “and” at the end of sub-paragraph (ii).

These repeals shall have effect as provided by order under section 32 of this Act.

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## PART IV **E+W+S**

### DOG LICENCES

Chapter	Short title	Extent of repeal
23 & 24 Geo. 5 c. 17.	Protection of Animals (Cruelty to Dogs) Act 1933.	In section 1(1), the words “and for holding or obtaining a dog licence”. Section 1(3). In section 1(4), the words “or applies for or obtains a dog licence”.
24 & 25 Geo. 5 c. 25.	Protection of Animals (Cruelty to Dogs) (Scotland) Act 1934.	In section 1(1), the words “and for holding or obtaining a dog licence”. Section 1(3). In section 1(4), the words “or applies for or obtains a dog licence”.
7 & 8 Eliz. 2 c. 55.	Dog Licences Act 1959.	The whole Act.
1966 c. 42.	Local Government Act 1966.	Section 36. In section 40(3), the words “or 36”. In Schedule 3, in Part II, the entry relating to the Dog Licences Act 1959.
1966 c. 51.	Local Government (Scotland) Act 1966.	Section 43. In Schedule 4, in Part II, the entry relating to the Dog Licences Act 1959.
1969 c. 48.	Post Office Act 1969.	Section 12(2)(a). In section 134, in subsection (1), the words “for dogs”, “in Great Britain”, “thereon and so,” and

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		“shall licences” and in subsection (2) the words “in Great Britain”.
		In section 135(1)(a), the words “licences for dogs.”
1972 c. 70.	Local Government Act 1972.	Section 213(1)(c).
1973 c. 65.	Local Government (Scotland) Act 1973.	In Schedule 27, paragraph 165.

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These repeals shall have effect at the end of the period of 2 months beginning with the day on which this Act is passed.

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