



# Deregulation and Contracting Out Act 1994

## 1994 CHAPTER 40

### PART II

#### CONTRACTING OUT

##### *Contracting out of functions*

#### **71 Functions excluded from sections 69 and 70.**

- (1) Subject to subsections (2) and (3) below, a function is excluded from sections 69 and 70 above if—
- (a) its exercise would constitute the exercise of jurisdiction of any court or of any tribunal which exercises the judicial power of the State; or
  - (b) its exercise, or a failure to exercise it, would necessarily interfere with or otherwise affect the liberty of any individual; or
  - (c) it is a power or right of entry, search or seizure into or of any property; or
  - (d) it is a power or duty to make subordinate legislation.
- (2) Subsection (1)(b) and (c) above shall not exclude any function of the official receiver attached to any court.
- (3) Subsection (1)(c) above shall not exclude any function of a local authority under, or under regulations made under, any of the following enactments, namely—
- (a) section 247 of <sup>M1</sup> the Local Government (Scotland) Act 1947 (enforcement of non-domestic rates);
  - (b) Part VI of <sup>M2</sup> the General Rate Act 1967 (distress for general rates);
  - (c) paragraphs 7 and 7A of Schedule 2 and paragraph 11 of Schedule 5 to <sup>M3</sup> the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (enforcement of community charges and community water charges);

**Changes to legislation:** Deregulation and Contracting Out Act 1994, Section 71 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (d) paragraphs 5 to 7 of Schedule 4 to <sup>M4</sup> the Local Government Finance Act 1988 (enforcement of community charge);
- (e) paragraph 3(2)(b) of Schedule 9 to that Act (enforcement of non-domestic rates);
- [<sup>F1</sup>(ea) section 48 of the Local Government Act 2003 (administration etc of BID levy) if the function corresponds to any function falling within paragraph (e) above,.  
I
- (f) paragraphs 5 to 7 of Schedule 4 to <sup>M5</sup> the Local Government Finance Act 1992 (enforcement of council tax);
- (g) paragraphs 2 and 6 of Schedule 8 and paragraph 11 of Schedule 11 to that Act (enforcement of council tax and council water charge); <sup>F2</sup>...
- (h) paragraph 2 of Schedule 10 to the Local <sup>M6</sup>Government etc. (Scotland) Act 1994 (enforcement of water and sewerage charges); [<sup>F3</sup> and
- (i) sections 217 and 218 of the Planning Act 2008 (Community Infrastructure Levy: collection and enforcement).]

#### Textual Amendments

- F1** S. 71(3)(ea) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 7 para. 59](#); [S.I. 2003/2938](#), art. 3(a) (with art. 8Sch.); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I
- F2** Word in s. 71(3)(g) omitted (6.4.2010) by virtue of [Planning Act 2008 \(c. 29\)](#), [ss. 224\(3\)](#), 241(8) (with s. 226); [S.I. 2010/566](#), art. 2
- F3** S. 71(3)(i) and word inserted (6.4.2010) by [Planning Act 2008 \(c. 29\)](#), [ss. 224\(3\)](#), 241(8) (with s. 226); [S.I. 2010/566](#), art. 2

#### Marginal Citations

- M1** 1947 c.43.
- M2** 1967 c.9.
- M3** 1987 c.47.
- M4** 1988 c.41.
- M5** 1992 c.14.
- M6** 1994 c. 39.

**Changes to legislation:**

Deregulation and Contracting Out Act 1994, Section 71 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 71(3)(h) word omitted by [2023 c. 55 Sch. 12 para. 4](#)

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

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

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