Local Government Act 1986

1986 CHAPTER 10

An Act to require rating authorities to set a rate on or before 1st April; to prohibit political publicity and otherwise restrain local authority publicity; to require the mortgagor's consent and make other provision in connection with the disposal of local authority mortgages; to amend the law as to the effect of retirement and re-election of, and the allowances payable to, members of certain authorities; and for connected purposes. [26th March 1986]

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**

PART I

RATING

1 . . . . . [F1]

Textual Amendments

F1 S. 1 repealed by Local Government Finance Act 1988 (c. 41, SIF 81:1), s. 149, **Sch. 13 Pt. I**

PART II

LOCAL AUTHORITY PUBLICITY

Modifications etc. (not altering text)

C2 Pt. II (ss. 2-6) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 9** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
Pt. II (ss. 2-6) applied (temp. until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 8**
Pt. II (ss. 2-6) power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (g)(i); S.I. 1997/1930, **art. 3(m)**

2 Prohibition of political publicity.

(1) A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

[[F2](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.**]**

(3) A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves.

Textual Amendments

F2 S. 2(2) substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 27(1)**

[[F3]2A Prohibition on promoting homosexuality by teaching or by publishing material.

(1) A local authority shall not—

(a) intentionally promote homosexuality or publish material with the intention of promoting homosexuality;

(b) promote the teaching in any maintained school of the acceptability of homosexuality as a pretended family relationship.

(2) Nothing in subsection (1) above shall be taken to prohibit the doing of anything for the purpose of treating or preventing the spread of disease.

(3) In any proceedings in connection with the application of this section a court shall draw such inferences as to the intention of the local authority as may reasonably be drawn from the evidence before it.

(4) In subsection (1)(b) above "maintained school" means,—

(a) in England and Wales, a county school, voluntary school, nursery school or special school, within the meaning of **[**[F4]the Education Act 1996**]**; and

(b) in Scotland, a public school, nursery school or special school, within the meaning of the Education (Scotland) Act 1980.

Textual Amendments

F3 S. 2A inserted by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 28(1)**

F4 Words in S. 2A(4)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 63** (with s. 1(4))

Modifications etc. (not altering text)

C3 S. 2A(1)(b) applied (1.11.1996) by 1996 c. 56, ss. 19, 583(2), **Sch. 1 para. 5** (with s. 1(4))

3 Other restrictions of existing powers.

(1) In section 142 of the [M1]Local Government Act 1972 and section 88 of the [M2]Local Government (Scotland) Act 1973 (general powers to provide information)—-

(a) in subsection (1) (power to make information available) after "other authorities" insert "mentioned in subsection (1B) below" and for "as to local government matters affecting the area" substitute "relating to the functions of the authority";

(b) after that subsection insert—

"(1A) A local authority may arrange for the publication within their area of information as to the services available in the area provided by them or by other authorities mentioned in subsection (1B) below.";

(c) in subsection (2)(a) (power to publish certain information) for "on matters relating to local government" substitute "relating to the functions of the authority".

(2) After the subsection (1A) inserted by subsection (1) above, in section 142 of the 1972 Act insert—

"(1B) The other authorities referred to above are any other local authority, the Inner London Education Authority, a joint authority established by Part IV of the Local Government Act 1985 and any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more local or other such authorities.";

and in section 88 of the 1973 Act insert—

"(1B) The other authorities referred to above are any other local authority and any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more local authorities.".

(3) In section 137 of the [M3]Local Government Act 1972 (power to incur expenditure for purposes not otherwise authorised), after subsection (2B) insert—

"(2C) A local authority may incur expenditure under subsection (1) above on publicity only—

(a) for the purpose of promoting the economic development of the authority's area where the publicity is incidental to other activities undertaken or to be undertaken by the authority for that purpose, or

(b) by way of assistance to a public body or voluntary organisation where the publicity is incidental to the main purpose for which the assistance is given;

but the following provisions of this section apply to expenditure incurred by a local authority under section 142 below on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as they apply to expenditure incurred under this section.

(2D) In subsection (2C) above—

"publicity" means any communication, in whatever form, addressed to the public at large or to a section of the public; and

"voluntary organisation" means a body which is not a public body but whose activities are carried on otherwise than for profit.";

and in section 83 of the [M4]Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland), after subsection (2B) insert—

"(2C) A local authority may incur expenditure under subsection (1) above on publicity only by way of assistance to a public body or voluntary organisation where the publicity is incidental to the main purpose for which the assistance is given; but the following provisions of this section apply to expenditure incurred by a local authority under section 88 below on information as to the services provided by them under this section, or otherwise relating to their functions under this section, as they apply to expenditure incurred under this section.

(2D) In subsection (2C) above—

"publicity" means any communication, in whatever form, addressed to the public at large or to a section of the public; and

"voluntary organisation" means a body which is not a public body but whose activities are carried on otherwise than for profit.".

Marginal Citations

M1 1972 c. 70.
M2 1973 c. 65.
M3 1972 c. 70.
M4 1973 c. 65.

4 Codes of recommended practice as regards publicity.

(1) The Secretary of State may issue one or more codes of recommended practice as regards the content, style, distribution and cost of local authority publicity, and such other related matters as he thinks appropriate, **[**[F5]; and local authorities shall have regard to the provisions of any such code in coming to any decision on publicity.**]**

(2) Codes may deal with different kinds of publicity or different kinds of local authority or the same kind of local authority in different circumstances or different areas.

(3) The Secretary of State may revise or withdraw a code issued under this section.

(4) The Secretary of State shall before issuing, revising or withdrawing a code consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.

(5) A code shall not be issued unless a draft of it has been laid before and approved by a resolution of each House of Parliament.

(6) Where the Secretary of State proposes to revise a code he shall lay a draft of the proposed alterations before each House of Parliament and—

(a) he shall not make the revision until after the expiration of the period of 40 days beginning with the day on which the draft is laid (or, if copies are laid before each House of Parliament on different days, with the later of those days), and

(b) if within that period either House resolves that the alterations be withdrawn, he shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).

In computing the period of 40 days no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

Textual Amendments

F5 Words substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), **s. 27(2)**

5 Separate account of expenditure on publicity.

(1) A local authority shall keep a separate account of their expenditure on publicity.

(2) Any person interested may at any reasonable time and without payment inspect the account and make copies of it or any part of it.

(3) A person having custody of the account who intentionally obstructs a person in the exercise of the rights conferred by subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The regulation making power conferred by section 23(1) (e) of the [M5]Local Government Finance Act 1982 or section 105(1) (d) of the [M6]Local Government (Scotland) Act 1973 (power to make provision as to exercise of right of inspection and as to informing persons of those rights) applies to the right of inspection conferred by subsection (2).

(5) The Secretary of State may by order provide that subsection (1) does not apply to publicity or expenditure of a prescribed description.

(6) Before making an order the Secretary of State shall consult such associations of local authorities as appear to him to be concerned and any local authority with whom consultation appears to him to be desirable.

(7) An order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C4 S. 5(1) excluded (E.W.) by S.I. 1987/2004, **arts. 3–7**

S. 5(1) applied (with modifications) (4.6.1996) by S.I. 1996/1243, art. 18, **Sch. 5 Pt. I para. 3**

C5 S. 5(1) excluded (S.) by S.I. 1988/332, **arts. 3–7**

Marginal Citations

M5 1982 c. 32.

M6 1973 c. 65.

6 Interpretation and application of Part II.

(1) References in this Part to local authorities and to publicity, and related expressions, shall be construed in accordance with the following provisions.

(2) "Local authority" means—

(a) in England and Wales—

a county, district or London borough council,

the Common Council of the City of London

[[F6]the Broads Authority (except in section 3),**]**

[[F7]a police authority established under **[**[F8]section 3 of the Police Act 1996**]]**

[[F9]the Service Authority for the National Crime Sqaud,**]**

[F10] . . . . . .

a joint authority established by Part IV of the [M7]Local Government Act 1985,

the Council of the Isles of Scilly, or

a parish or community council;

(b) in Scotland, a **[**[F11]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**;

and includes any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more such authorities.

(3) This Part applies to the Common Council of the City of London as local authority, police authority or port health authority.

(4) "Publicity", "publish" and "publication" refer to any communication, in whatever form, addressed to the public at large or to a section of the public.

(5) This Part applies to any such publicity expressly or impliedly authorised by any statutory provision, including—

section 111 of the [M8]Local Government Act 1972 or section 69 of the [M9]Local Government (Scotland) Act 1973 (general subsidiary powers of local authorities),

section 141 of the Local Government Act 1972 or section 87 of the Local Government (Scotland) Act 1973 (research and collection of information), and

section 145(1)(a) of the Local Government Act 1972 or section 16(1)(a) of the [M10]Local Government and Planning (Scotland) Act 1982 (provision of entertainments, etc.).

(6) Nothing in this Part shall be construed as applying to anything done by a local authority in the discharge of their duties under Part VA of the Local Government Act 1972 or Part IIIA of the Local Government (Scotland) Act 1973 (duty to afford public access to meetings and certain documents).

Textual Amendments

F6 Words inserted by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), ss. 21, 23(2), 27(2), **Sch. 6 para. 27**

F7 Words in s. 6(2)(a) inserted (1.10.1994) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 29**; S.I. 1994/2025, **art. 6(2)(e)(g)**

F8 Words in s. 6(2)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 1(2)(y)**

F9 Words in s. 6(1)(a) inserted (1.4.1998) by 1997 c. 50, s. 88, **Sch. 6 para. 23**; S.I. 1998/354, **art. 2(2)(au)**

F10 Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

F11 Words in s. 6(2)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 145**; S.I. 1996/323, **art. 4(1)(b)(c)**

Modifications etc. (not altering text)

C6 S. 6(2) extended (E.W.) by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 8(q)**

C7 S. 6(2) amended (E.W.) by S.I. 1989/1815, art. 2, **Sch. 1 para. 6(e)**

Marginal Citations

M7 1985 c. 51.

M8 1972 c. 70.

M9 1973 c. 65.

M10 1982 c. 43.

PART III

TRANSFER OF LOCAL AUTHORITY MORTGAGES

Modifications etc. (not altering text)

C8 Pt. III (ss. 7-9) power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (g)(ii); S.I. 1997/1930, **art. 3(m)**

7 Transfer requires mortgagor's consent.

(1) A local authority shall not dispose of their interest as mortgagee of land without the prior written consent of the mortgagor (or, if there is more than one mortgagor, of all of them) specifying the name of the person to whom the interest is to be transferred.

(2) Consent given for the purposes of this section—

(a) may be withdrawn by notice in writing to the authority at any time before the disposal is made, and

(b) ceases to have effect if the disposal is not made within six months after it is given;

and if consent is withdrawn or ceases to have effect the authority shall return to the mortgagor any document in their possession by which he gave his consent.

(3) A disposal made without the consent required by this section is void, subject to subsection (4).

(4) If consent has been given and the local authority certify in the instrument effecting the disposal that it has not been withdrawn or ceased to have effect, the disposal is valid notwithstanding that consent has in fact been withdrawn or ceased to have effect.

(5) In such a case any person interested in the equity of redemption may, within six months of the disposal, by notice in writing served on the local authority, require the authority, the transferee and any person claiming under the transferee to undo the disposal, on such terms as may be agreed between them or determined by the court, and execute any documents and take any other steps necessary to vest back in the local authority the interest disposed of by them to the transferee.

(6) The Secretary of State may by regulations—

(a) require a local authority to give to a mortgagor whose consent is sought such information as may be prescribed,

(b) prescribe the form of the document by which a mortgagor's consent is given,

(c) require a local authority making a disposal to secure that notice of the fact that the disposal has been made is given to the mortgagor, and

(d) prescribe the form of that notice and the period within which it must be given.

(7) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) This section applies—

(a) to disposals on or after 24th July 1985 of a local authority's interest as mortgagee under a Housing Act mortgage, and

(b) to disposals on or after 1st April 1986 of a local authority's interest as mortgagee under any description of mortgage,

except, in either case, where the disposal is carried out in pursuance of a contract entered into before that date.

(9) For this purpose a "Housing Act mortgage" means a mortgage entered into (whether by the local authority in question or a predecessor in title) under—

the Small Dwellings Acquisition Acts 1899 to 1923,
section 104 or 119 of the [M11]Housing Act 1957,
section 43 of the [M12]Housing (Financial Provisions) Act 1958,
section 100 of the [M13]Housing Act 1974, or
section 1(1)(c) of the [M14]Housing Act 1980.

Modifications etc. (not altering text)

C9 S. 7 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(m)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

Marginal Citations

M11 1957 c. 56.
M12 1958 c. 42.
M13 1974 c. 44.
M14 1980 c. 51.

8 . . . . . [F12]

Textual Amendments

F12 S. 8 repealed by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(2), **Sch. 12 Pt. I**

9 Interpretation and application of Part III.

(1) In this Part—

(a) "local authority" means—

a county, district or London borough council,

the Common Council of the City of London,

[[F13]a police authority established under **[**[F14]section 3 of the Police Act 1996**]]**

[[F15]the Service Authority for the National Crime Squad,**]**

[F16] . . . . . .

a joint authority established by Part IV of the [M15]Local Government Act 1985,

the Council of the Isles of Scilly, or

any other authority prescribed for the purposes of this Part by regulations made by the Secretary of State,

and includes any authority, board or committee which discharges functions which would otherwise fall to be discharged by two or more such authorities,

(b) references to a local authority's interest as mortgagee of land include any interest of the authority in the land or in the debt secured, and

(c) references to the disposal of such an interest are to any transfer of the interest otherwise than by operation of law;

and for the purposes of this Part the disposal of an interest in registered land shall be taken to occur when the transfer is made and not when it is registered.

(2) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) At the end of Schedule 13 to the [M16]Local Government Act 1985 (provisions with respect to residuary bodies) add—

"25 A residuary body shall be treated as a local authority for the purposes of Part III of the Local Government Act 1986 (transfer of local authority mortgages).".

Textual Amendments

F13 Words in s. 9(1)(a) inserted (1.10.1994) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 30**; S.I. 1994/2025, **art. 6(2)(e)(g)**

F14 Words in s. 9(1)(a) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. I para. 1(2)(y)**

F15 Words in s. 9(1)(a) inserted (1.4.1998) by 1997 c. 50, s. 88, **Sch. 6 para. 24**; S.I. 1998/354, **art. 2(2)(au)**

F16 Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

Modifications etc. (not altering text)

C10 S. 9 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(m)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))

C11 S. 9(1)(*a*) extended by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 8(q)**

C12 S. 9(1)(*a*) amended by S.I. 1989/1815, art. 2, **Sch. 1 para. 6(e)**

Marginal Citations

M15 1985 c. 51.

M16 1985 c. 51.

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous

10 Retirement and re-election not to affect membership of joint authority.

(1) In section 32 of the Local Government Act 1985, after subsection (1) (appointment to joint authority to terminate if person appointed ceases to be a member of constituent council) insert—

"(1A) For the purposes of this section a person shall not be treated as ceasing to be a member of a constituent council where he retires by virtue of—

(a) section 7(3) of the Local Government Act 1972 (retirement of metropolitan district councillors), or

(b) paragraph 6(3) of Schedule 2 to that Act (retirement of London borough councillors),

and is re-elected to membership of the council not later than the day of his retirement.".

(2) In section 31 of that Act (replacement of members of joint authority), at the end add—

"(3) Where a constituent council exercises its powers under this section to replace a person who has continued to be a member of a joint authority by virtue of section 32(1A) below and notice is given not later than seven days after the council's annual meeting next following his retirement and re-election, his appointment shall terminate and the new appointment shall take effect upon the notice being given.";

and in subsection (2)(b) after "subject to" insert "subsection (3) below and to".

(3) In Schedule 12 to the [M17]Local Government Act 1972 for paragraph 6A (annual meeting of the new authorities) substitute—

"6A (1) Paragraph 1 above applies to a joint authority as it applies to a principal council, except that the annual meeting of the authority shall be held on such day between 1st March and 30th June (both inclusive) as the authority may fix.

(2) Paragraph 1 above applies to the Inner London Education Authority as it applies to the council of a London borough.”.

Marginal Citations
M17 1972 c. 70.

[F17 11 Allowances payable to members of new authorities.

(1) Section 177 of the Local Government Act 1972 (supplementary provisions as to allowances payable to members of local authorities and other bodies) is amended as follows.

(2) In subsection (2) (meaning of “approved duty”: things done as member of certain prescribed bodies), for “paragraphs (b) to (f) of subsection (1) above” (which does not reflect the amendment made to subsection (1) by paragraph 19 of Schedule 14 to the M18Local Government Act 1985) substitute “paragraphs (ab) to (f) of subsection (1) above”.

(3) After that subsection insert—

“(2A) References in sections 173 and 173A above to a local authority and a councillor include references—

(a) to the Inner London Education Authority and a member of the Authority, and

(b) to a joint authority and a member of the authority appointed by one of the authority’s constituent councils;

and in relation to such a member of a joint authority the references in section 173A(3) to his election shall be construed as references to his appointment.”.

(4) In subsection (3) (co-opted members of committees to be treated as members of authority) after “For the purposes of sections 173 to 176 above”, insert “(but not for the purposes of subsection (2A) above)”.

(5) The reference in section 177(2A) of the M19Local Government Act 1972 (as inserted by subsection (3) above) to members of the Inner London Education Authority shall be construed, in relation to the period before elected members of the Authority first take office, as a reference to persons who are members of the Authority by virtue of section 18(5) of the M20Local Government Act 1985 and who are, or immediately before its abolition were, councillors of the Greater London Council.

(6) Section 84(2) and (3) of the Local Government Act 1985 (application of local authority provisions to new authorities) apply in relation to this section and the amendments made by this section as if they had been contained in Schedule 14 to that Act as originally enacted.

(7) A person who was a member of the Inner London Education Authority or a joint authority at any time before the commencement of this section may within one month of commencement give such notices under section 173A of the Local Government Act 1972 (right to opt for financial loss allowance) as he could have given if the amendments made by this section had come into force on the date on which they are, by virtue of subsection (6), deemed to have come into force and, in the case of a member

of the Inner London Education Authority, as if he had been elected to membership of that authority on the date on which he became a member.**]**

Textual Amendments

F17 S. 11 repealed (prosp.) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), ss. 194(4), 195(2), **Sch. 12 Pt. I**

Marginal Citations

M18 1985 c. 51.
M19 1972 c. 70.
M20 1985 c. 51.

General

12 Short title, commencement and extent.

(1) This Act may be cited as the Local Government Act 1986.

(2) The provisions of this Act come into force as follows—

F18 . . . . . .

Part II, except section 5, comes into force on 1st April 1986;

section 5 comes into force on such day as the Secretary of State may appoint by order made by statutory instrument;

Part III, except section 8, comes into force on the day this Act is passed;

section 8 comes into force on 1st April 1986;

Part IV comes into force on the day this Act is passed.

(3) Part II and this section extend to England and Wales and Scotland; the other provisions of this Act extend to England and Wales only.

Subordinate Legislation Made

P1 Power of appointment conferred by s. 12(2) fully exercised: 1.4.1988 appointed for s. 5 by S.I. 1987/2003, **art. 2**

Textual Amendments

F18 Words repealed by Local Government Finance Act 1988 (c. 41, SIF 81:1), s. 149, **Sch. 13 Pt. I**

Status:
Point in time view as at 01/04/1998.

Changes to legislation:
There are currently no known outstanding effects for the Local Government Act 1986.