Local Government and Housing Act 1989

1989 CHAPTER 42

An Act to make provision with respect to the members, officers and otherstaff and the procedure of local authorities; to amend Part III of the LocalGovernment Act 1974 and Part II of the Local Government (Scotland) Act 1975 and to provide for a national code of local government conduct; to makefurther provision about the finances and expenditure of local authorities(including provision with respect to housing subsidies) and about companiesin which local authorities have interests; to make provision for and inconnection with renewal areas, grants towards the cost of improvement andrepair of housing accommodation and the carrying out of works of maintenance,repair and improvement; to amend the Housing Act 1985 and Part III of theLocal Government Finance Act 1982; to make amendments of and consequentialupon Parts I, II and IV of the Housing Act 1988; to amend the Local GovernmentFinance Act 1988 and the Abolition of Domestic Rates Etc. (Scotland) Act 1987and certain enactments relating, as respects Scotland, to rating andvaluation, and to provide for the making of grants; to make provision withrespect to the imposition of charges by local authorities; to make furtherprovision about certain existing grants and about financial assistance to andplanning by local authorities in respect of emergencies; to amend sections 102and 211 of the Local Government (Scotland) Act 1973; to amend the Local LandCharges Act 1975; to enable local authorities in Wales to be known solely byWelsh language names; to provide for the transfer of new town housing stock;to amend certain of the provisions of the Housing (Scotland) Act 1987 relatingto a secure tenant's right to purchase his house; to amend section 47 of theRace Relations Act 1976; to confer certain powers on the Housing Corporation,Housing for Wales and Scottish Homes; to make provision about security oftenure for certain tenants under long tenancies; to provide for the making ofgrants and giving of guarantees in respect of certain activities carried onin relation to the construction industry; to provide for the repeal of certainenactments relating to improvement notices, town development and educationsupport grants; to make, as respects Scotland, further provision in relationto the phasing of progression to registered rent for houses let by housingassociations or Scottish Homes and in relation to the circumstances in whichrent increases under assured tenancies may be secured; and for connectedpurposes. [16th November 1989]

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

[X1]Be it enacted by the Queen's most Excellent Majesty, by and with theadvice and consent of the Lords Spiritual and Temporal, and Commons, in thispresent Parliament assembled, and by the authority of the same, asfollows:—

Editorial Information

X1 The text of ss. 74–138, 157, 161–183,190–193, 194(1), 195, Schs. 4, 9, Sch. 11 paras. 31, 32, 42, 58,62–88, 93–95, 99, 100, 107, 110–112 was taken from S.I.F.Group 61 (Housing), ss. 187, 193, 195 from S.I.F. Group 64 (IndustrialDevelopment), ss. 149(6), 186, 190–193, 194(1), 195, Schs. 7, 10, Sch.11 paras. 8–13, 49–54, 60, 61, 89–91, 101–106, 108,109, 112 from S.I.F. Group 75:1 (Landlord and Tenant: General, E.&W.), ss.1(1)–(3)(5)–(8), 2–13, 15–22, 23(1), 24–26, 28,30(2), 31, 32(1), 33–35, 36(1)–(8), 37–73, 139,146–158, 160, 184, 188–195, Schs. 1–3, 5, 8, Sch. 11 paras.1–7, 14, 16–30, 37–41, 47, 48, 56, 57, 59, 92, 96–98,113, Sch. 11 paras. 1–7, 14, 16–30, 37–41, 47, 48, 56, 57,59, 92, 96–98, 113, Sch. 12 from S.I.F. Group 81:1 (Local Government:General, E.&W.), and ss. 1(1)(2)(4)–(8), 2–12, 14–21,23(2), 27, 29, 30(1), 31, 32(2), 36(9), 140–145, 150–153, 155,157, 159, 185, 190, 192, 194(1), 195, Schs. 1, 6, Sch. 11 paras. 15,33–36, 43–46, 55, 96, 97 from S.I.F. Group 81:2 (Local Government:General, S.).

Modifications etc. (not altering text)

C1 Act: (except ss. 43(2), 53(1) and 54(1) so far as they relate to a fire authority or police authority, and except s. 43(3)) transfer of functions (W.) (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

PART I

LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

Modifications etc. (not altering text)

C2 Pt. 1 (ss. 1-21) applied (temp. from 4.5.1995 to 31.3.1996) by S.I. 1995/1042, **art. 4(1)**
Pt. 1 (ss. 1-21): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(i); S.I. 1997/1930, **art. 2(1)(2)(m)** (subject to art. 2(3))
Pt. 1 (ss. 1-21): extended (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 23, 108(4), **Sch. 1 para. 3(13)**; S.I. 2000/2849, **art. 2(c)**

C3 Pt. 1 (ss. 1-21): extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **3(6)**

Political restriction of officers and staff

1 Disqualification and political restriction of certain officers and staff.

(1) A person shall be disqualified from becoming (whether by election orotherwise) or remaining a member of a local authority if he holds apolitically restricted post under that local authority or any other localauthority in Great Britain.

(2) In the [M1]House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—

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"Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part."

(3) In section 80 of the [M2]Local Government Act 1972 (disqualification for election and holding office as member of local authority)—

(a) in subsection (1)(a) (paid office holders and employees), the words "joint board, joint authority or" shall be omitted; and

(b) in subsection (6) (extension of meaning of "local authority"), after the word "includes" there shall be inserted " a joint board and ".

(4) In section 31 of the [M3]Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—

(a) in subsection (1)(a)(ii), the words "or joint board" shall be omitted; and

(b) after subsection (1) there shall be inserted the following subsection—

"(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board."

(5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.

(6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.

(7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.

(8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.

Modifications etc. (not altering text)

C4 S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 1 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 1 extended (8.5.2000) by 1999 c. 29, **ss. 68**, 70 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

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Marginal Citations

M1 1975 c. 24.
M2 1972 c. 70.
M3 1973 c. 65.

2 Politically restricted posts.

(1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—

(a) the person designated under section 4 below as the head of the authority's paid service;

(b) the statutory chief officers;

(c) a non-statutory chief officer;

(d) a deputy chief officer;

(e) the monitoring officer designated under section 5 below;

(f) any person holding a post to which he was appointed in pursuance of section 9 below; and

(g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 below or with section 100G(2) of the [M4]Local Government Act 1972 or section 50G(2) of the [M5]Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated).

(2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—

(a) the full time posts the annual rate of remuneration in respect of which is or exceeds £19,500 or such higher amount as may be specified in or determined under regulations made by the Secretary of State;

(b) the part time posts the annual rate of remuneration in respect of which would be or exceed that amount if they were full time posts in respect of which remuneration were paid at the same rate as for the part time post; and

(c) posts not falling within paragraph (a) or (b) above the duties of which appear to the authority to fall within subsection (3) below,

as are not posts for the time being exempted under section 3 below, posts for the time being listed under section 100G(2) of the [M6]Local Government Act 1972 or section 50G(2) of the [M7]Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.

(3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—

(a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented**[**[F1] or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority**]**;

(b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.

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(4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.

(5) It shall be the duty of every local authority in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.

(6) In this section "the statutory chief officers" means—

(a) the chief education officer **[**F2or director of education**]** appointed under **[**F3section 532 of the Education Act 1996**][**F2or section 78 of the M8Education (Scotland) Act 1980**]**;

(b) the chief officer of a fire brigade maintained under the M9Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;

(c) the director of social services or **[**F4chief social work officer**]** appointed under section 6 of the M10Local Authority Social Services Act 1970 or section 3 of the M11Social Work (Scotland) Act 1968; and

(d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the M12Local Government Act 1985, section 112 of the M13Local Government Finance Act 1988 **[**F5, section 127(2) of the Greater London Authority Act 1999**]** or section 6 below or for the purposes of section 95 of the M14Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs.

(7) In this section "non-statutory chief officer" means, subject to the following provisions of this section—

(a) a person for whom the head of the authority's paid service is directly responsible;

(b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and

(c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.

(8) In this section "deputy chief officer" means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.

(9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.

(10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—

(a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a local education authority or, in Scotland, is under the management of or is assisted by an education authority; or

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(b) any other post as a teacher or lecturer in any such school, college, institution or establishment,

or of requiring any such post to be included in any list prepared and maintained under this section.

(11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

Textual Amendments

F1 Words in s. 2(3)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 22; S.I. 2002/808, arts. 1(2), **21**

F2 Words in s. 2(6)(a) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(2)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F3 Words in s. 2(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 95** (with s. 1(4), Sch. 39 paras. 30, 39)

F4 Words in s. 2(6)(c) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(2)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

F5 Words in s. 2(6)(d) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, **s. 127(8)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3**, 4

Modifications etc. (not altering text)

C5 S. 2 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Marginal Citations

M4 1972 c. 70.
M5 1973 c. 65.
M6 1972 c.70.
M7 1973 c.65.
M8 1980 c. 44.
M9 1947 c.41.
M10 1970 c. 42.
M11 1968 c. 49.
M12 1985 c. 51.
M13 1988 c. 41.
M14 1973 c. 65.

3 Grant and supervision of exemptions from political restriction.

(1) It shall be the duty of the Secretary of State to appoint a person—

(a) to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and

(b) to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.

(2) A person appointed under subsection (1) above—

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(a) shall consider any application for exemption from political restrictionwhich is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and

(b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.

(3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—

(a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; and

(b) in the case of a post falling within paragraph (a) or (b) of that subsection, the authority have certified whether or not, in their opinion, the duties of the post fall within subsection (3) of that section;

and it shall be the duty of a local authority to give a certificate forthe purposes of paragraph (b) above in relation to any post if they are requested to do so by the holder of that post.

(4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3)above, that person shall direct—

(a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and

(b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.

(5) A person appointed under subsection (1) above shall not give a directionunder subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—

(a) is a post the duties of which fall within section 2(3) above; and

(b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the [M15]Local Government Act 1972 or section 50G(2) of the [M16]Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.

(6) It shall be the duty of a local authority—

(a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;

(b) to comply with any direction under this section with respect to the list maintained by the authority; and

(c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.

(7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.

(8) The Secretary of State may—

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(a) appoint different persons under subsection (1) above for England and for Wales;

(b) provide for the appointment of such numbers of staff to assist any person appointed under that subsection, and to act on that person's behalf, as the Secretary of State may with the consent of the Treasury determine;

(c) pay to or in respect of a person appointed under that subsection andmembers of such a person's staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and

(d) provide for a person appointed under that subsection and such a person's staff to hold office on such other terms as the Secretary of State may so determine.

Modifications etc. (not altering text)

C6 S. 3 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 3 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 3 extended (8.5.2000) by 1999 c. 29, **ss. 68**, 70 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Marginal Citations

M15 1972 c. 70.

M16 1973 c. 65.

Duties of particular officers

4 Designation and reports of head of paid service.

(1) It shall be the duty of every relevant authority—

(a) to designate one of their officers as the head of their paid service; and

(b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.

(2) It shall be the duty of the head of a relevant authority's paid service,where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.

(3) Those matters are—

(a) the manner in which the discharge by the authority of their different functions is co-ordinated;

(b) the number and grades of staff required by the authority for the discharge of their functions;

(c) the organisation of the authority's staff; and

(d) the appointment and proper management of the authority's staff.

(4) It shall be the duty of the head of a relevant authority's paid service,as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be sent to each member of the authority.

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(5) It shall be the duty of a relevant authority to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the [M17]Local Government Act 1972 or in section 56 of **[**[F6], or Schedule 10 or 20 to,**]** the [M18]Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.

(6) In this section "relevant authority"—

(a) in relation to England and Wales, means a local authority of any of thedescriptions specified in paragraphs (a) to (e) of section 21(1) below; and

(b) in relation to Scotland, **[**[F7]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**.

(7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

F6 Words in s. 4(5) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(3)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F7 Words in s. 4(6)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(3)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

C7 S. 4 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(a)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 4 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 72(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Marginal Citations

M17 1972 c. 70.

M18 1973 c. 65.

5 Designation and reports of monitoring officer.

(1) It shall be the duty of every relevant authority—

(a) to designate one of their officers (to be known as "the monitoring officer") as the officer responsible for performing the duties imposed by this section **[**[F8]and, where relevant, section 5A below**]**; and

(b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties **[**[F9]and, where relevant, the duties under section 5A below**]** to be performed;

and **[**[F10]subject to subsection (1A) below**]** the officer so designated may be the head of the authority's paid service **[**[F11](or, in the case of a police authority established under **[**[F12]section 3 of the Police Act 1996**]****[**[F13]or the Metropolitan Police Authority**]**, the clerk to the authority)**]** but shall not be their chief finance officer.

[[F14](1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority's paid service.**]**

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F14[(1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—

(a) a county council,

(b) a county borough council,

(c) a district council,

(d) a London borough council,

(e) the Greater London Authority, and

(f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.]

(2) [F15Subject to subsection (2B),] it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, [F16or sub-committee of the authority, by any person holding any office or employment under the authority] or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—

(a) a contravention by the authority, by any committee, [F16or sub-committee of the authority, by any person holding any office or employment under the authority] or by any such joint committee of any enactment or rule of law [F17or of any code of practice made or approved by or under any enactment]; or

(b) any such maladministration or injustice as is mentioned in Part III of the M19Local Government Act 1974 (Local Commissioners) or Part II of the M20Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland),

to prepare a report to the authority with respect to that proposal, decision or omission.

[F18(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the M21Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.]

[F19(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.]

(3) It shall be the duty of a relevant authority's monitoring officer—

(a) in preparing a report under this section to consult so far as practicable with the [F20person who is for the time being designated as the head of the authority's paid service under section 4 above] and with their chief finance officer; and

(b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority [F21and, in a case where the relevant authority have a mayor and council manager executive, to the council manager of the authority].

(4) The references in subsection (2) above, in relation to a relevant authority in England and Wales, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to any of the following, that is to say—

F22(a) . . . . . .

(b) any local fisheries committee the members of which include persons so appointed;

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[F23](c) . . . . . .

(d) any sub-committee appointed by a committee falling within paragraphs (a) to (c) above;

but in relation to any such committee or sub-committee the reference in subsection (3)(b) above to each member of the authority shall have effect as a reference to each member of the committee or, as the case may be, of the committee which appointed the sub-committee.

(5) It shall be the duty of a relevant authority and of any such committee as is mentioned in subsection (4) above—

(a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority or committee; and

(b) without prejudice to any duty imposed by virtue of section 115 of the [M22]Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;

and nothing in section 101 of the [M23]Local Government Act 1972 or in section 56 of [F24]... the [M24]Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.

(6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.

(7) The duties of a relevant authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.

[[F25](7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).**]**

(8) In this section **[**[F26]and in section 5A**]**—

"business day", in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the [M25]Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;

"chief finance officer", in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the [M26]Local Government Act 1985, section 112 of the Local Government Finance Act 1988 **[**[F27], section 127(2) of the Greater London Authority Act 1999**]** or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs; and

"relevant authority"—

(a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to **[**[F28](k)**]** of section 21(1) below; and

(b) in relation to Scotland, means a local authority.

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[F29(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.**]**

(9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

F8 Words in s. 5(1)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(a); S.I. 2002/808, arts. 1(2), **22(1)(a)**

F9 Words in s. 5(1)(b) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(b); S.I. 2002/808, arts. 1(2), **22(1)(b)**

F10 Words in s. 5(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(2)**

F11 Words in s. 5(1)(b) inserted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F12 Words in s. 5(1) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**

F13 Words in s. 5(1) inserted (for certain purposes on the "operative date" (as defined in art. 1(2)(c) of S.I. 2000/1095) and on 3.7.2000 for all other purposes) by 1999 c. 29, s. 325, **Sch. 27 para. 62** (with Sch. 12 para. 9(1)); S.I. 2000/1095, **art. 4(2)(c)**

F14 S. 5(1A)(1B) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(3)**

F15 Words in s. 5(2) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(c); S.I. 2002/808, arts. 1(2), **22(1)(c)**

F16 Words in s. 5(2) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(b)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F17 Words in s. 5(2)(a) repealed (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1)(2), 108(4), Sch. 5 para. 24(1)(4), **Sch. 6**

F18 S. 5(2A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(6)**

F19 S. 5(2B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(d); S.I. 2002/808, arts. 1(2), **22(1)(d)**

F20 Words in s. 5(3)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(c)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F21 Words in s. 5(3)(b) added (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(e); S.I. 2002/808, arts. 1(2), **22(1)(e)**

F22 S. 5(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F23 S. 5(4)(c) 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.**

F24 Words in s. 5(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(4), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F25 S. 5(7A) inserted (E.W.) (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 113(3)**, 128(2)(d)

F26 Words in s. 5(8) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(f); S.I. 2002/808, arts. 1(2), **22(1)(f)**

F27 S. 5(8): words in the definition of "chief finance officer" inserted (8.5.2000 for specified purposes, otherwise 3.7.2000) by 1999 c. 29, **s. 132(1)(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3**, 4

F28 S. 5(8): words in para. (a) of the definition of "relevant authority" substituted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(7)**

F29 S. 5(8A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(8)**

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Modifications etc. (not altering text)

C8 S. 5 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)(b)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

C9 S. 5 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(1), **Sch. 6 para. 7(3)**

C10 S. 5 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 73** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2** (as amended: (27.5.2000) by S.I. 2000/1435, art. 2, **Sch. 1 Pt. I para. 5**; (E.W.) (28.7.2001) by 2000 c. 22, ss. 107, 108(4), Sch. 5 para. 24(5), **Sch. 6**; and (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), **Sch. 22 para. 49**; and (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), **Sch. 19 para. 38**; S.I. 2012/628, **art. 6(i)**)

C11 S. 5 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 15** (with s. 32); S.S.I. 2000/312, **art. 2**

C12 S. 5(1) applied (10.5.2000) by S.I. 2000/1095, **art. 6(5)(a)**

Marginal Citations

M19 1974 c. 7.
M20 1975 c. 30.
M21 1974 c. 7.
M22 1988 c. 41.
M23 1972 c. 70.
M24 1973 c. 65.
M25 1971 c. 80.
M26 1985 c. 51.

[F30 5A Reports of monitoring officer—local authorities operating executive arrangements

(1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.

(2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.

(3) The events referred to for the purposes of subsection (2) are—

(a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or

(b) any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974 F31 (Local Commissioners).

(4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.

(5) It shall be the duty of an authority's monitoring officer—

(a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer; and

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(b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority and, where the authority has a mayor and council manager executive, the council manager.

(6) It shall be the duty of the authority's executive—

(a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and

(b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.

(7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.

(8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—

(a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;

(b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and

(c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.

(9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority's monitoring officer.

(10) The duties of an authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.**]**

Textual Amendments

F30 S. 5A inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/3327, arts. 1(2), 23(2); S.I. 2002/808, arts. 1(2), **22(2)**

F31 1974 c.7.

6 Officer responsible for financial administration of certain authorities.

(1) On and after the commencement day the Common Council shall—

(a) make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority or port health authority, and

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(b) secure that one of its officers has responsibility for the administration of those affairs.

(2) Section 17 of the [M27]City of London Sewers Act 1897 (functions of the chamberlain of the City of London as regards financial affairs) shall cease to have effect on the commencement day.

(3) On and after the commencement day the person having responsibility for the administration of certain of the financial affairs of the Common Council under subsection (1) above shall—

(a) be a member of one or more of the bodies specified in subsection (5)below; or

(b) be the person who immediately before that day was the chamberlain of the City of London; or

(c) be a person who qualifies by virtue of section 113(2)(b) of the [M28]Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or

(d) fulfil two or more of those conditions.

(4) On and after the commencement day the person having responsibility for the administration of the financial affairs of a new successor body under section 73 of the [M29]Local Government Act 1985 shall—

(a) be a member of one or more of the bodies specified in subsection (5)below; or

(b) be the person who immediately before that day had responsibility for the administration of the financial affairs of the body concerned under the said section 73; or

(c) be a person who qualifies by virtue of section 113(2)(b) of the Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned insection 111(2)(a) to (k) of that Act; or

(d) fulfil two or more of those conditions.

(5) The bodies referred to in subsections (3)(a) and (4)(a) above are—

(a) the Institute of Chartered Accountants in England and Wales;

(b) the Institute of Chartered Accountants of Scotland;

(c) the Chartered Association of Certified Accountants;

(d) the Chartered Institute of Public Finance and Accountancy;

(e) the Institute of Chartered Accountants in Ireland;

(f) the Chartered Institute of Management Accountants;

(g) any other body of accountants established in the United Kingdom and forthe time being approved by the Secretary of State for the purposes of this section.

(6) The Secretary of State may make regulations containing, as regards the Common Council and any new successor body to which section 73 of the [M30]Local Government Act 1985 applies, provisions equivalent to sections 114 to 116 of the [M31]Local Government Finance Act 1988 (reports etc.) subject to—

(a) modifications to confine the provisions to the Common Council in its capacity as a local authority, police authority or port health authority; and

(b) any other modifications the Secretary of State thinks fit;

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and any such regulations may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(7) In this section—

"the commencement day" means the day on which this section comes into force;

"the Common Council" means the Common Council of the City of London;

"new successor body" means a body corporate established at any time by an order under section 67(3) of the Local Government Act 1985 (new body succeeding to residuary body's functions).

(8) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Marginal Citations

M27 1897 c. cxxxiii.
M28 1988c. 41.
M29 1985 c. 51.
M30 1985c. 51.
M31 1988 c. 41.

Appointment and management etc. of staff

7 All staff to be appointed on merit.

(1) Every appointment of a person to a paid office or employment under—

(a) a local authority or parish or community council in England and Wales, or

(b) a local authority in Scotland,

shall be made on merit.

(2) M32M33Subsection (1) above applies to all appointments made by, or by any committee of, a local authority or parish or community council, whether made under section 112 of the Local Government Act 1972 or section 64 of the Local Government (Scotland) Act 1973 (appointment of staff) or otherwise, but has effect subject to—

F32(a) . . . . . .

(b) section 18 of the M34Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);

(c) section 7 of the M35Sex Discrimination Act 1975 (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);

(d) section 5 of the M36Race Relations Act 1976 (discrimination permitted in relation to employment where being of a particular racial group is a genuine occupational qualification); F33. . .

(e) section 113 of the M37Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities) **[**F34; and.

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F34(f) **[**F35sections 4, 4A, 4D and 4E of the Disability Discrimination Act 1995 (discrimination and duties to make adjustments in relation to employees and office-holders).**]**

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

Textual Amendments

F32 S. 7(2)(a) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(a)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**

F33 Word in s. 7(2)(d) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(b)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III** (and repealed (*prosp.*) by 1995 c. 50, s. 70(3)(5), **Sch. 7** (with ss. 59, 64, 65)

F34 S. 7(2)(f) and preceding "; and" inserted (2.12.1996) by 1995 c. 50, s. 70(4), **Sch. 6 para. 5(c)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**

F35 S. 7(2)(f) substituted (3.7.2003 for specified purposes) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), reg. 1(2)(3), **31(1)**

Modifications etc. (not altering text)

C13 S. 7 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 7 applied (8.5.2000) by 1999 c. 29, **s. 67(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Marginal Citations

M32 1972 c. 70.
M33 1973 c. 65.
M34 1947 c. 41.
M35 1975 c. 65.
M36 1976 c. 74.
M37 1988 c. 41.

8 Duty to adopt standing orders with respect to staff.

(1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—

(a) to incorporate such provision as may be prescribed by the regulations instanding orders relating to their staff; and

(b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.

(2) For the purposes of this section standing orders relate to the staff of a relevant authority if they make provision for regulating—

(a) the appointment of persons to paid office or employment under the authority; or

(b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.

(3) Without prejudice to the generality of subsection (1) above, regulations under this section may require a relevant authority's standing orders—

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(a) so to restrict the manner of exercising the power to take steps for or towards the selection of candidates for interview, or for appointment, as to make it exercisable only by the authority themselves, by a committee orsub-committee of the authority or by particular officers of the authority;

(b) to restrict the power of the authority or any of their committees or sub-committees—

(i) to give directions to persons making appointments on their behalf as to the identity of the individuals to be appointed; or

(ii) otherwise to interfere with the making of appointments by such persons;

(c) to require the monitoring officer of the authority to prepare a report tothe authority in respect of every proposed appointment of a person to a politically restricted post;

(d) to require every such report to state whether, in the opinion of the monitoring officer, the proposed appointment can be made—

(i) without any contravention of any provision made by or under this Part; and

(ii) without any matter being taken into account which could not properly be taken into account;

and, if in his opinion it cannot be so made, his reasons; and

(e) to prohibit the authority or any committee, sub-committee or other person acting on their behalf from dismissing or taking other disciplinary action against a person holding office or employment under the authority except in accordance with recommendations contained in a report made to the authority by an independent person of such a description as is prescribed by the regulations.

(4) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate; and that provision may include—

(a) provision which, for the purposes of any such restriction as is mentioned in subsection (3) above, makes modifications of any enactment with respect to the delegation of a relevant authority's functions;

(b) provision which (with or without modifications) applies provisions of section 5 above in relation to any report prepared in consequence of regulations made by virtue of subsection (3)(c) above;

(c) provision specifying the consequences—

(i) in relation to any appointment or contract of employment;

(ii) in relation to any proceedings on a complaint to an **[**F36employment tribunal**]**; and

(iii) in relation to any expenditure incurred by the authority,

of any contravention of standing orders made in pursuance of the regulations; and

[F37(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons—

(i) in pursuance of section 9 below;

(ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and

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(iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor's assistant).**]**

(5) In this section "relevant authority"—

(a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and

(b) in relation to Scotland, means a **[**[F38]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**.

Textual Amendments

F36 Words in s. 8(4)(c)(ii) substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(a)** (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**

F37 S. 8(4)(d) substituted (E.) (18.5.2001) by The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (England) Order 2001 (S.I. 2001/1517), **art. 5**
S. 8(4)(d) substituted (W.) (1.4.2002) by The Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002 (S.I. 2002/803), **art. 5**

F38 Words in s. 8(5)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(5)**; S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

C14 S. 8 with the omission of subsection (4)(c) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 8 applied (8.5.2000) by 1999 c. 29, **s. 67(6)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

9 Assistants for political groups.

(1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person's political activities or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.

(2) An appointment is an appointment in pursuance of this section if—

(a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;

(b) the terms of the appointment comply with subsection (3) below;

(c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and

(d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.

(3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—

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(a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the [M38]Local Government Act 1972 (annual meeting of principal councils); and

(b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the [M39]Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.

(4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—

(a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and

(b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;

and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—

(a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;

(b) prohibit the allocation of a post to a political group which does not qualify for one; and

(c) prohibit the allocation of more than one post to any one political group.

(6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—

(a) the membership of that group comprises at least one-tenth of the membership of the authority;

(b) the number of the other groups (if any) which are larger than that group does not exceed two; and

(c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;

and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that paragraph as secure that there are no more nor less than three groups which do qualify for a post.

(7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—

(a) the groups qualifying for a post shall be that group and one other group;and

(b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;

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and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.

(8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—

(a) section 101 of the [M40]Local Government Act 1972 (delegation); or

(b) section 56 of **[**[F39], or Schedule 10 or 20 to,**]** the [M41]Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland),**[**[F40]; or

(c) Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)**]**

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

[[F41](8A) Neither an executive, a committee of an executive or a member of an executive, of a relevant authority, shall exercise any power under—

(a) sections 14 to 18 of the Local Government Act 2000 (discharge of functions); or

(b) section 101(5) of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities),

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

(8B) An area committee of a relevant authority shall not exercise any power under arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.**]**

(9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.

(10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—

(a) as to the circumstances in which the members of a relevant authority areto be treated as divided into different political groups;

(b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;

(c) requiring the question whether a person is or is not a member of apolitical group to be determined in such manner as may be provided for by or under the regulations;

(d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;

(e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

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and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(11) In this section—

"appropriate year", in relation to a post held by any person under a relevant authority, means—

(a) where the authority is one in relation to which provision for whole council elections has been made by virtue of section 7(4)(a) or 26(2)(a) of the [M42]Local Government Act 1972, the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and

(b) in any other case, the period of twelve months beginning with the third anniversary of that person's appointment to that post;

[[F42]"area committee" has the same meaning as in section 18 of the Local Government Act 2000;**]**

"membership", in relation to a relevant authority, means the number of persons who are for the time being members of the authority;

"relevant authority"—

(a) in relation to England and Wales, means the council of any county, **[**[F43]county borough**]** district or London borough; and

(b) in relation to Scotland, means a **[**[F44]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**.

Textual Amendments

F39 Words in s. 9(8)(b) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(6)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F40 S. 9(8)(c) and the word preceding it inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(a); S.I. 2002/808, arts. 1(2), **23(a)**

F41 S. 9(8A)(8B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(b); S.I. 2002/808, arts. 1(2), **23(b)**

F42 S. 9(11): definition of "area committee" inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(c); S.I. 2002/808, arts. 1(2), **23(c)**

F43 S. 9(11): words in the definition of "relevant authority" para. (a) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(1)**

F44 S. 9(11): words in the definition of "relevant authority" para. (b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(6)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

C15 S. 9 applied in part (8.5.2000) by 1999 c. 29, **s. 67(8)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

C16 S. 9 applied in part (with modifications) (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **3(7)(8)**

Marginal Citations

M38 1972 c. 70.

M39 1973 c. 65.

M40 1972 c. 70.

M41 1973 c. 65.

M42 1972 c. 70.

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10 Limit on paid leave for local authority duties.

(1) Notwithstanding anything in **[**[F45]section 50(4) of the Employment Rights Act 1996**]** (conditions of time off for public duties), where—

(a) a local authority permit an employee of theirs to take time off for the purpose of performing the duties of a member of a relevant council; and

(b) those duties do not include the duties of chairman of the council,

it shall be unlawful for the authority to make any payment of remuneration or other payment to that employee in respect of so much (if any)of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time off to which the employee would not be entitled apart from his membership of that council.

(2) In this section—

"chairman", in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

"employee" has the same meaning as in the **[**[F46]the Employment Rights Act 1996**]**;

"financial year" means the twelve months ending with 31st March; and

"relevant council" means the council of any county, **[**[F47]county borough**]** district or London borough, the Common Council of the City of London, a parish orcommunity council or any council in Scotland which is a local authority for the purposes of **[**[F48]subsection (2) of section 50**]** of that Act (time off for public duties);

and subsection (3) of that section (meaning of duties of a member of a body) shall apply for the purposes of this section as it applies for the purposes of that section.

Textual Amendments

F45 Words in s. 10(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(a)** (with ss. 191-195, 202)

F46 S. 10(2): words in the definition of "employee" substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(b)(i)** (with ss. 191-195, 202)

F47 S. 10(2): words in the definition of "relevant council" inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(2)**

F48 S. 10(2): words in the definition of "relevant council" substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 44(b)(ii)** (with ss. 191-195, 202)

Modifications etc. (not altering text)

C17 S. 10 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 10 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

11 Confidentiality of staff records.

(1) Nothing in **[**[F49]section 17 of the [M43]Local Government Finance Act 1982 or**]** section 79 of the [M44]Local Government Act 1985 (public inspection of accounts etc.) or in section 101 or 106 of the [M45]Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland) shall entitle any person—

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(a) to inspect so much of any document as contains personal information about a member of the relevant body's staff; or

(b) to require any such information to be disclosed in answer to any question.

(2) Information shall be regarded as personal information about a member of the relevant body's staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—

(a) that that individual holds or has held any office or employment under that body; or

(b) that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that body.

(3) In this section—

"document" includes accounts, books, deeds, contracts, bills, vouchers and receipts; and

"relevant body" in relation to accounts which are required to be audited in accordance with **[**F50the Audit Commission Act 1998**]** or Part VII of the said Act of 1973, means the body whose accounts are required to be audited or, as the case may be, the Common Council of the City of London;

and references in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.

(4) This section shall have effect only in relation to—

(a) the inspection of, or of documents relating to, accounts for periods beginning on or after 1st April 1990; and

(b) the disclosure of information in answer to questions about such accounts.

Textual Amendments

F49 Words in s. 11(1) repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1)(3), 55(2), Sch. 3 para. 18(1)(a), **Sch. 5**

F50 S. 11(3): words in definition of "relevant body" substituted (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 18(1)(b)**

Modifications etc. (not altering text)

C18 S. 11 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11

Marginal Citations

M43 1982 c. 32.

M44 1985 c. 51.

M45 1973c. 65.

12 Conflict of interest in staff negotiations.

(1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include—

(a) a person who is both a member of the authority and in such employment; or

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(b) a person who is both a member of the authority and an official or employeeof a trade union whose members include persons in local authority employment.

(2) In this section—

[[F51] "member", in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of its constituent or affiliated trade unions;**]**

"official" and "trade union" have the same meanings as in [M46]**[**[F52]the Trade Union and Labour Relations (Consolidation) Act 1992**]**

and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1)(a) of the [M47]Local Government Act 1972 or section 31(1)(a) of the [M48]Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.

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

Textual Amendments

F51 Definition of 'member' in s. 12(2) substituted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 39(2)**

F52 Words in s. 12(2) substituted (16.10.1992) by Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), ss. 300(2), 302, **Sch. 2 para. 39(3)**

Modifications etc. (not altering text)

C19 S. 12 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 12 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(8)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 12 applied (with modifications) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**

Marginal Citations

M46 1974 c.52.
M47 1972 c. 70.
M48 1973 c. 65.

Voting rights of members of certain committees

13 Voting rights of members of certain committees: England and Wales.

(1) Subject to the following provisions of this section, a person who—

(a) is a member of a committee appointed under a power to which this section applies by a relevant authority and is not a member of that authority;

(b) is a member of a joint committee appointed under such a power by two or more relevant authorities and is not a member of any of those authorities; or

(c) is a member of a sub-committee appointed under such a power by such acommittee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

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shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

(2) The powers to which this section applies are—

(a) the powers conferred on any relevant authority by subsection (1) of section 102 of the [M49]Local Government Act 1972 (ordinary committees, joint committees and sub-committees);

[F53](b) . . . . . .

(c) the powers exercisable by any relevant authority for the purposes of section 2 of the [M50]Local Authority Social Services Act 1970 (social services committees) or by virtue of section 4 of that Act (joint social services committees and sub-committees).

(3) Nothing in subsection (1) above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (4) below; but, except—

(a) in the case of a sub-committee appointed by a committee falling within paragraph (e) of that subsection; and

(b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

(4) A committee or sub-committee falls within this subsection if it is—

[F54](a) . . . . . .

(b) a local fisheries committee for any sea fisheries district;

(c) a committee established in accordance with any regulations made by virtue of section 7 of the [M51]Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);

[F55](d) . . . . . .

(e) a committee appointed under section 102(4) of the Local Government Act 1972 (appointment of advisory committees by local authorities);

(f) a committee constituted in accordance with **[**[F56]Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)**]**;

(g) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;

(h) a sub-committee appointed by a committee falling within any of **[**[F57]paragraphs (b) to (g)**]** above or such a sub-committee as is so prescribed.

[[F58](5) Nothing in this section shall prevent the appointment of a person who is not a member of a local education authority as a voting member of—

(a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority,

(b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities, or

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(c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee's functions with respect to education,

where that appointment is required **[**F59either**]** by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees) **[**F60or pursuant to regulations under subsection (6) of that section**].]**

[F61(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in his place, as a voting member of a joint committee, or a sub-committee of such a committee, where—

(a) that local authority have a mayor and council manager executive F62; and

(b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive.**]**

[F63(6) The Secretary of State may, if it appears to him appropriate to do so inconsequence of the preceding provisions of this section, withdraw any approval given before the coming into force of this section in relation to any arrangements for the purposes of paragraph 1 of Part II of Schedule 1 to the said Act of 1944**]**.

(7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (5) above to a voting member, in relation to any **[**F64committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection**]**, is a reference to a person who is entitled to vote at any meeting of that committee or sub-committee on any question which falls to be decided at that meeting.

(8) In subsection (3) of section 102 of the M52Local Government Act 1972, the words from "but at least" onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities) shall be omitted.

(9) In this section—

[F65"council manager", "executive" and "mayor and council manager executive" have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); and**]**

F66 . . .

"relevant authority" means a local authority of any of the descriptions specified in **[**F67paragraphs (a) to (f) or (h) to (j)**]** of section 21(1) below or any parish or community council;

and references in this section to voting include references to making use of a casting vote.

Textual Amendments

F53 S. 13(2)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(a), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**

F54 S. 13(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

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F55 S. 13(4)(d) 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.**

F56 Words in s. 13(4)(f) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(2)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)

F57 Words in s. 13(4)(h) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F58 S. 13(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(3)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)

F59 Word in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F60 Words in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**

F61 S. 13(5A) inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(a); S.I. 2002/803, **art. 6(1)(a)**

F62 See regulations 11 and 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (S.I. 2000/2851) and the Local Authorities (Executive Arrangements) (Discharge of Functions) (Wales) Regulations 2001 (S.I. 2001/2287 (W.175)).

F63 S. 13(6) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(c), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**

F64 Words in s. 13(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(4)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)

F65 S. 13(9): definition inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(b); S.I. 2002/803, **art. 6(1)(b)**

F66 S. 13(9): the definition of "foundation governors" and the "and" immediately following it repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 96(1)(5), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39 paras. 5, 6, 8, 30, 39)

F67 S. 13(9): words in the definition of "relevant authority" substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

Modifications etc. (not altering text)

C20 S. 13 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 13 excluded (8.5.2000) by 1999 c. 29, s. 154(4), **Sch. 10 para. 9(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Marginal Citations

M49 1972 c. 70.

M50 1970 c. 42.

M51 1972 c. 11.

M52 1972 c. 70.

14 Voting rights of members of certain committees: Scotland.

(1) Subject to the following provisions of this section, a person who—

(a) is a member of a committee appointed under subsection (1) of section 57of the [M53]Local Government (Scotland) Act 1973 by a relevant authority and is not a member of that authority;

(b) is a member of a joint committee appointed under that subsection by two or more relevant authorities and is not a member of any of those authorities; or

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(c) is a member of a sub-committee appointed under that subsection by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

F68(2) . . . . . .

F68(3) . . . . . .

(4) Nothing in **[**F69subsection (1)**]** above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (5) below; but, except—

(a) in the case of a sub-committee appointed by a committee falling within paragraph (b) of that subsection; and

(b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

(5) A committee or sub-committee falls within this subsection if it is—

(a) a committee established in accordance with any regulations made by virtue of section 7 of the M54Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);

(b) a committee appointed under section 57(4) of the M55Local Government (Scotland) Act 1973 (appointment of advisory committees by local authorities);

(c) a committee constituted in accordance with Schedule A1 to the M56Education (Scotland) Act 1980 (appeal committees for hearing placing and other appeals);

[F70(d) a Children's Panel Advisory Committee formed under paragraph 3, or a joint advisory committee formed under paragraph 8, of Schedule 1 to the Children (Scotland) Act 1995;**]**

(e) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;

(f) a sub-committee appointed by a committee falling within any of paragraphs (a) to (e) above or such a sub-committee as is so prescribed.

[F71(6) Nothing in this section shall prevent the appointment as a voting member of—

(a) a committee such as is mentioned in subsection (1) of section 124 of the M57Local Government (Scotland) Act 1973 (committees appointed by education authority); or

(b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or

(c) any sub-committee of such a committee or joint committee,

of a person such as is mentioned in subsection (4) of the said section 124.**]**

(7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any

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meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (6) above to a voting member, in relation to any such committee, joint committee or sub-committee as is mentioned in that subsection, is a reference to a person who is entitled to vote at any meeting of that committee, joint committee or sub-committee on any question which falls to be decided at that meeting.

(8) In the Local Government (Scotland) Act 1973—

(a) in section 57(3), the words from "but at least" onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities);

[[F72](aa) section 124(5);**]**

(b) in section 161(6), the words from "but at least" onwards (which make corresponding provision in relation to a social work committee);

(c) in Schedule 10, paragraph 11 (which requires at least half of a joint education committee to be members of the appointing authorities);

(d) in Schedule 20, paragraph 10 (which requires at least two-thirds of a joint social work committee to be members of the appointing authorities),

shall be omitted.

(9) In this section "relevant authority" means a **[**[F73]council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**; and references in this section to voting include references to making use of a casting vote.

Textual Amendments

F68 S. 14(2)(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(7)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F69 Words in s. 14(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

F70 S. 14(5)(d) substituted (1.4.1997) by 1995 c. 36, s. 105(4), **Sch. 4 para. 49(1)(2)** (with s. 103(1)); S.I. 1996/3201, **art. 3(7)**

F71 S. 14(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(d)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

F72 S. 14(8)(aa) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(e)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

F73 Words in s. 14(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(f)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

M53 1973 c. 65.

M54 1972 c. 11.

M55 1973 c. 65.

M56 1980 c.44.

M57 1973 c. 65.

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Political balance on committees etc.

15 Duty to allocate seats to political groups.

(1) It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—

(a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time;

(b) where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the [M58]Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;

(c) where, at the time of the meeting required by paragraph 1 of Schedule 7 to the [M59]Local Government (Scotland) Act 1973 to be held in an election year within twenty-one days of the election, the members of the authority are divided into different political groups, at or as soon as practicable after the meeting;

(d) as soon as practicable after any such division as is mentioned in paragraphs (a) to (c) above occurs; and

(e) at such other times as may be prescribed by regulations made by the Secretary of State.

(2) Except in such cases as may be prescribed by regulations made by the Secretary of State, it shall be the duty of every committee of a relevant authority which is a committee having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—

(a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time; and

(b) as soon as practicable after any occasion on which the members of the committee are changed in consequence of a determination under this section.

(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.

(4) Subject to subsection (6) below, it shall be the duty of a relevant authority or committee of a relevant authority—

(a) in performing their duty under subsection (3) above; and

(b) in exercising their power, at times not mentioned in subsection (3) above, to determine the allocation to different political groups of seats on a body to which this section applies,

to make only such determinations as give effect, so far as reasonably practicable, to the principles specified in subsection (5) below.

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(5) The principles mentioned in subsection (4) above, in relation to the seats on any body which fall to be filled by appointments made by any relevant authority or committee of a relevant authority, are—

(a) that not all the seats on the body are allocated to the same political group;

(b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;

(c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and

(d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.

(6) Where any relevant authority or committee of a relevant authority are required, in determining the allocation to different political groups of seats on a body to which this section applies, to give effect to the principles specified in subsection (5) above—

(a) any seats which, in accordance—

(i) with provision made by virtue of subsection (5) of section 13 above; or

(ii) with subsection (6) of section 14 above,

are to be or may be filled by the appointment of persons who are not members of the authority shall be taken into account for the purpose of determining how many seats constitute a majority of the seats on a body mentioned in either of those subsections; but

(b) that authority or committee shall, in making that determination, disregard for all other purposes any seats which, in accordance with any such provision, the said subsection (6) or otherwise, are to be or may be so filled;

and for the purposes of this subsection a seat on an advisory committee of a relevant authority or on a sub-committee appointed by such an advisory committee shall not be treated as one which may be so filled unless the authority have determined that it must be so filled.

(7) Schedule 1 to this Act shall have effect for determining the bodies towhich this section applies and for the construction of this section andsections 16 and 17 below.

Modifications etc. (not altering text)

C21 Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21**, 22

C22 Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**

C23 S. 15 excluded (3.4.1995) by 1994 c. 19, **ss. 30(11)**, 31(9) (with ss. 54(7), 55(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 5**

S. 15 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

S. 15 extended (E.W.) (26.11.2000 for E. and 28.7.2001 for W.) by 2000 c. 22 ss. 21(11)(b), 108(4); S.I. 2000/2849, **art. 2(a)**

S. 15 excluded (E.W.) (19.12.2000 for E. and police authorities in Wales otherwise 28.7.2001) by 2000 c. 22, **ss. 53(10)**, 108(4); S.I. 2000/3335, **art. 2**

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S. 15 applied (E.) (2.4.2001) by S.I. 2001/1299, **reg. 6(10)(b)**
S. 15 excluded (W.) (28.7.2001) by S.I. 2001/2283, **reg. 12**
S. 15 applied (W.) (28.7.2001) by S.I. 2001/2284, **reg. 5(1)(b)**

C24 S. 15(2)(3)(5) modified by S.I. 1990/1553, **reg. 23** (as added by S.I. 1991/1398, **reg. 8**)

Marginal Citations

M58 1972 c. 70.

M59 1973 c. 65.

16 Duty to give effect to allocations.

(1) Where any relevant authority or any committee of a relevant authority have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority or committee so to exercise their power to make appointments to that body as to give effect—

(a) as soon as practicable after the determination; and

(b) if a vacancy subsequently occurs on that body, as soon as practicable after the occurrence of the vacancy,

to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.

(2) Where—

(a) any person has been appointed, otherwise than for a fixed term, to a body to which section 15 above applies; and

(b) that appointment was made, in pursuance of subsection (1) above, in accordance with the wishes of a political group,

then, so long as that person's seat continues to be allocated to that group, the authority or committee which made the appointment shall act in accordance with the wishes of that group in determining whether and when to terminate the appointment.

(3) The proceedings of a body to which section 15 above applies shall not be invalidated by any defect by virtue of this section or that section in the appointment of any person to that body.

(4) This section applies in relation to an allocation of seats to different political groups whether or not that allocation is made in pursuance of any duty under section 15 above.

Modifications etc. (not altering text)

C25 Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21**, 22

C26 Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**

C27 S. 16 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

17 Exceptions to and extensions of political balance requirements.

(1) Subject to subsection (2) below, sections 15 and 16 above shall not apply in relation to appointments by a relevant authority or committee of a relevant authority to any body in so far as different provision is made by arrangements approved by the authority or committee—

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(a) in such manner as may be prescribed by regulations made by the Secretary of State; and

(b) without any member of the authority or committee voting against them.

(2) Arrangements approved under subsection (1) above in relation to any body shall not affect any duty imposed by virtue of section 15(1)(c), (d) or (e) or (2) above on a relevant authority or committee to review the representation of different political groups on that body; and, accordingly, such arrangements shall cease to have effect when any such duty arises.

(3) The Secretary of State may, for the purpose of securing what appears to him to be the appropriate representation of different political groups on any sub-committee falling within subsection (4) below, by regulations make such provision as he thinks fit.

(4) The sub-committees that fall within this subsection are those to which appointments may be made by bodies to which section 15 above applies but which are not themselves such bodies.

(5) Without prejudice to the generality of subsection (3) above, regulations under that subsection may contain provision applying, with or without modifications, any provision made by or under section 15 or 16 above, subsections (1) and (2) above or Schedule 1 to this Act.

Modifications etc. (not altering text)

C28 Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21**, 22

C29 S. 17 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Allowances

18 Schemes for basic, attendance and special responsibility allowances forlocal authority members.

(1) **[**[F74]Subject to subsection (1A),**]** the Secretary of State may by regulations authorise or require any such relevant authority as may be specified or described in the regulations to make a scheme providing for the payment of—

(a) a basic allowance for every member of the authority who is a councillor;

(b) an attendance allowance in relation to the carrying out by any such member of such duties as may be specified in or determined under the regulations; and

(c) a special responsibility allowance for any such member who has such special responsibilities in relation to the authority as may be so specified or determined.

[[F75](1A) In relation to a district council, county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b).**]**

(2) Regulations under this section may also authorise or require a scheme made by a relevant authority under the regulations to include provision for the payment to appointed members of allowances in respect of such losses of earnings and expenses as—

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(a) are necessarily sustained or incurred in the carrying out, in connection with their membership of the authority or any committee or sub-committee of the authority, of duties specified in or determined under the regulations; and

(b) are not of a description in respect of which provision is made for an allowance under any of sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973.

[F76(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members.**]**

(3) Without prejudice to the generality of the powers conferred by subsections (1) **[**F77to (2A)**]** above, regulations under this section may contain such provision as the Secretary of State considers appropriate for requiring a scheme made by a relevant authority under the regulations—

(a) to make it a condition of any payment by way of allowance that, in the financial year to which the payment would relate, the aggregate amount which the authority has paid out or is already liable to pay out under the scheme does not exceed such maximum amount as may be specified in or determined under the regulations;

(b) to make provision for different maximum amounts to be applicable, for the purposes of any such condition, in relation to different allowances or in relation to different members or members of different groups;

(c) to make provision in relation to claims which cannot be paid by virtue of any such condition and provision for the payment to members of the authority who are councillors of an amount by way of supplement to the basic allowance where, in any financial year, the aggregate paid out or owing under the scheme is less than an amount specified in or determined under the regulations;

(d) to provide that the amount authorised by virtue of subsection (2) above to be paid by way of allowance in any case shall not exceed such amount as may be so specified or determined;

(e) to contain such provision as may be so specified or determined with respect to the general administration of the scheme, with respect to the manner in which, time within which and forms on which claims for any allowance are to be made and with respect to the information to be provided in support of any such claim;

(f) to contain such provision as may be so specified or determined for avoiding the duplication of payments or of allowances, for determining the bodies by which payments of allowances are to be made and for the apportionment of payments between different bodies.

[F78(3A) Regulations under this section may make provision for or in connection with—

(a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,

(b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.

F78(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council

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to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.

F78(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.

F78(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of county councils and county borough councils in Wales.

F78(3E) Regulations under subsection (3B) above may include provision—

(a) with respect to the number of persons who may or must be appointed to the panel of a council,

(b) with respect to the persons who may or must be appointed to the panel of a council,

(c) for or in connection with the appointment by councils of joint panels.

F78(3F) Regulations under subsection (3C) may include provision—

(a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,

(b) with respect to the persons who may or must be appointed to such a panel.

F78(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—

(a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,

(b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,

(c) which permits different recommendations to be made in relation to different councils or descriptions of council.**]**

(4) Regulations under this section may—

(a) prohibit the payment, otherwise than in accordance with sections 174 to176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973 or in such other cases as may be specified in the regulations, of any allowance to a member of a relevant authority who is a councillor or to any appointed member of a relevant authority;

(b) impose requirements on a relevant authority with respect to the publication, in the minutes of that authority or otherwise, of the details of amounts paid in pursuance of a scheme made under the regulations;

[F79(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and**]**

(c) contain such incidental provision and such supplemental, consequential and transitional provision in connection with the other provisions of the regulations as the Secretary of State considers appropriate.

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(5) In this section "relevant authority" means—

(a) a local authority of any of the descriptions specified in any of the paragraphs of section 21(1) below, other than **[**F80paragraphs (d), (g) and (j)**]**, or insection 21(2) below;

(b) any body on which a body which is a relevant authority by virtue of paragraph (a) above is represented and which is designated as a relevant authority for the purposes of this section by regulations made by the Secretary of State; or

(c) any appeal committee so designated which is constituted in accordance with **[**F81paragraph 2 or 3 of Schedule 33 to the Education Act 1996**]**;

and references in this section to an appointed member, in relation to a relevant authority, are references to any person who is a member of the authority without being a councillor or who is a member of one or more of theauthority's committees or sub-committees without being a member of the authority.

[F82(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough council shall have regard to any guidance for the time being issued by the Secretary of State.**]**

(6) In this section any reference to a councillor includes a reference to a member of the authority concerned who, in accordance with regulations under this section, is to be treated as if he were a councillor.

Textual Amendments

F74 Words in s. 18(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, **ss. 99(3)(4)**, 108(4)

F75 S. 18(1A) inserted (E.W.) (28.7.2001) by 2000 c. 22, **ss. 99(3)(4)**, 108(4)

F76 S. 18(2A) inserted (E.W.) (19.2.2001 for E.and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(5)**, 108(4); S.I. 2001/415, **art. 2(b)**

F77 S. 18(3): words "to 2A" substituted for "and (2)" (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(6)**, 108(4); S.I. 2001/415, **art. 2(b)**

F78 S. 18(3A)-(3G) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(7)**, 108(4); S.I. 2001/415, **art. 2(b)**

F79 S. 18: subsection (4)(ba) substituted for the word "and" in subsection (4)(b) (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(8)**, 108(4); S.I. 2001/415, **art. 2(b)**

F80 Words in s. 18(5)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 37**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F81 Words in s. 18(5)(c) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 97** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)

F82 S. 18(5A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(9)**, 108(4); S.I. 2001/415, **art. 2(b)**

Modifications etc. (not altering text)

C30 S. 18 applied (with modifications) (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 18 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 18 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

C31 S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**

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C32 S. 18(1)(b) applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**
C33 S. 18(2)(b) restricted (E.) (1.5.2003) by The Local Authorities (Members Allowances) (England) Regulations 2003 (S.I. 2003/1021), regs. 1(1), **34(1)(c)** (with reg. 34(2))
C34 S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
C35 S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
C36 S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**

Members' interests

19 Members' interests.

[F83(1) The Secretary of State may by regulations require each member of a local authority—

(a) to give a general notice to the proper officer of the authority setting out such information about the member's direct and indirect pecuniary interests as may be prescribed by the regulations, or stating that he has no such interests; and

(b) from time to time to give to that officer such further notices as may be so prescribed for the purpose of enabling that officer to keep the information provided under the regulations up to date.

(2) Any member of a local authority who—

(a) without reasonable excuse fails to comply with the requirements of any regulations under this section; or

(b) in giving a notice in compliance with any such requirement, provides information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.

(3) Proceedings for an offence under subsection (2) above shall not be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.

(4) Neither section 96 of the M60Local Government Act 1972 (general notice of pecuniary interests) nor section 40 of the M61Local Government (Scotland) Act 1973 (corresponding provision for Scotland) shall apply in relation to any notice given in pursuance of any regulations under this section; but such regulations may provide—

(a) that the giving of a notice in pursuance of any such regulations shall be deemed to be sufficient disclosure for the purposes of section 94 of the said Act of 1972 (disability of members of authorities for voting on account of interest in contracts etc.) or for the purposes of section 38 of the said Act of 1973; and

(b) that the proper officer of a local authority is to maintain such records of the information contained in notices given to him as may be prescribed by the regulations and is to keep those records open to inspection by members of the public.

(5) A local authority shall not be entitled (whether by means of making it acondition of any appointment or by any other means whatever) to impose any obligations on their members to disclose any interests other than those that they are required to disclose

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by virtue of section 94 of the Local Government Act 1972, section 38 of the Local Government (Scotland) Act 1973 or any regulations under this section.

(6) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(7) References in this section to the indirect pecuniary interests of a member of a local authority shall include references to any such interests as, by virtue of any connection between that member or his spouse and any other person, would fall to be disclosed—

(a) in the case of a local authority in England and Wales, under section 94 of the Local Government Act 1972; or

(b) in the case of a local authority in Scotland, under section 38 of the Local Government (Scotland) Act 1973,

if the authority were proposing to enter into a contract with that other person.**]**

Textual Amendments

F83 S. 19 repealed (S.) (1.5.2003) by Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), s. 37(2), **sch. 4** (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

Modifications etc. (not altering text)

C37 S. 19 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 19 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 10(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 19 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 154(4), **Sch. 10 para. 13(12)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
S. 19 excluded (E.) (27.11.2001,*temp.* until 27.11.2002) by S.I. 2001/3577, **art. 3(1)(b)**
S. 19 excluded (E.) (27.11.2001,*temp.* until 27.7.2002) by S.I. 2001/3376, **art. 3(1)(c)**

Commencement Information

I1 S.19 wholly in force: s. 19 not in force at Royal Assent, see s. 195(2); s. 19 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, **art. 4** and in force at 8.5.1992 so far as not already in force by S.I. 1992/760, **art. 2**

Marginal Citations

M60 1972 c. 70.
M61 1973 c.65.

Duty to adopt certain procedural standing orders

20 Duty to adopt certain procedural standing orders.

(1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—

(a) to incorporate such provision as may be prescribed by the regulations in standing orders for regulating their proceedings and business; and

(b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.

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(2) Without prejudice to the generality of subsection (1) above, regulations under this section may require such standing orders as are mentioned in that subsection to contain provision which, notwithstanding any enactment or the decision of any relevant authority or committee or sub-committee of a relevant authority, authorises persons who are members of such an authority, committee or sub-committee—

(a) to requisition meetings of the authority or of any of their committees or sub-committees;

(b) to require a decision of a committee or sub-committee of the authority to be referred to and reviewed by the authority themselves or by a committee of the authority;

(c) to require that a vote with respect to a matter falling to be decided by the authority or by any of their committees or sub-committees is to be taken in a particular manner.

(3) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(4) In this section "relevant authority"—

(a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (j) of section 21(1) below or any parish or community council; and

(b) in relation to Scotland, means a local authority.

Modifications etc. (not altering text)

C38 S. 20 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
S. 20 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 12(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Interpretation of Part I

21 Interpretation of Part I.

(1) Any reference in this Part to a local authority is, in relation to England and Wales, a reference to a body of one of the following descriptions—

(a) a county council;

[F84(aa) a county borough council;**]**

(b) a district council;

(c) a London borough council;

(d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;

(e) the Council of the Isles of Scilly;

(f) a fire authority constituted by a combination scheme under the M62Fire Services Act 1947;

[F85(g) a police authority established under **[**F86section 3 of the Police Act 1996**][**F87or the Metropolitan Police Authority**];]**

(h) an authority established under section 10 of the M63Local Government Act 1985 (waste disposal authorities);

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(i) a joint authority established by Part IV of that Act ([F88police,] fire services, civil defence and transport) [F89or the London Fire and Emergency Planning Authority];

(j) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);

(k) the Broads Authority;

(l) any joint board the constituent members of which consist of any of the bodies specified above; [F90. . .]

F91(m) . . . . . .[F92and

F92(n) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the M64Town and Country Planning Act 1990.]

(2) Any reference in this Part to a local authority is, in relation toScotland, a reference to a [F93council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board within the meaning of section 235(1) of the M65Local Government (Scotland) Act 1973.

(3) In this Part—

"contravention" includes a failure to comply;

[F94"council manager", "executive", "executive arrangements" and "mayor and council manager executive" have the same meaning as in Part II of the Local Government Act 2000;]

"modifications" includes additions, alterations and omissions;

"proper officer"—

(G) in relation to a local authority in England and Wales, has the same meaning as in the Local Government Act 1972; and

(G) in relation to a local authority in Scotland, has the same meaning as in the Local Government (Scotland) Act 1973; and

"subordinate legislation" has the same meaning as in the M66Interpretation Act 1978.

(4) References in this Part to an officer of a local authority or to a paid office under a local authority do not include references to, or to the office of, the chairman or vice-chairman of the authority (whether referred to as such, as mayor, Lord Mayor, deputy mayor, as Lord Provost or otherwise [F95or a member of any executive of the authority (other than a council manager)]).

Textual Amendments

F84 S. 21(1)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(3)**

F85 S. 21(1)(g) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 38**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F86 Words in s. 21(1)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**

F87 Words in s. 21(1)(g) substituted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. II para. 50; S.I. 2002/344, **art. 3** (with transitional provisions in art. 4)

F88 Word in s. 21(1)(i) repealed (1.4.1995 (E.W.) otherwise (*prosp.*)) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

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F89 Words in s. 21(1)(i) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 55** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(a)(h)**

F90 Word in s. 21(1)(l) omitted (23.11.1995) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F91 S. 21(1)(m) repealed (1.4.1997) by 1995 c. 25, s. 120(1), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**

F92 S. 21(1)(n) and the preceding "and" added (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F93 Words in s. 21(2) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(8)**; S.I. 1996/323, **art. 4(1)(c)**

F94 S. 21(3): definition inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(a); S.I. 2002/808, arts. 1(2), **24(a)**

F95 Words in s. 21(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(b); S.I. 2002/808, arts. 1(2), **24(b)**

Modifications etc. (not altering text)

C39 S. 21 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. entry 11**

Marginal Citations

M62 1947c. 41.

M63 1985 c. 51.

M64 1990 c. 8.

M65 1973 c. 65.

M66 1978 c. 30.

PART II

LOCAL GOVERNMENT ADMINISTRATION

22 Advisory Commissioners.

(1) Section 23 of the [M67]Local Government Act 1974 (constitution and functions of Commissions for Local Administration) shall have effect with the amendments specified in subsections (2) to (4) below.

(2) In subsection (1), at the end, there shall be added the words " but each of the Commissions may include persons appointed to act as advisers, not exceeding the number appointed to conduct investigations." "

(3) In subsection (3), after the words "Parliamentary Commissioner" there shall be inserted the words " or an advisory member" ".

(4) In subsections (4), (5) and (6) the word "Local" shall be omitted.

(5) In Schedule 4 to the said Act, in paragraph 3 (remuneration), at the end there shall be inserted the following sub-paragraph–

"(3) Sub-paragraphs (1) and (2) above apply in relation to Commissioners who are advisory members of the Commission as they apply in relation to Local Commissioners."

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Marginal Citations

M67 1974 c. 7.

23 Advice and guidance by Commissions for Local Administration and ScottishCommissioner.

(1) In section 23 of the Local Government Act 1974 (appointment and functions of Commissions for Local Administration) there shall be inserted, after subsection (12), the following subsections—

"(12A) Each of the Commissions may, after consultation with the representative persons and authorities concerned, provide to the authorities or any of the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to the Commission to be appropriate and may arrange for it to be published for the information of the public.

(12B) The representative persons and authorities concerned are—

(a) for the purposes of subsection (12) above, such persons appearing to the Commission to represent authorities in England or, as the case may be,authorities in Wales to which this Part of this Act applies, and in the case of such authorities as are not so represented, those authorities; and

(b) for the purposes of subsection (12A) above, such of those persons and authorities as the Commission think appropriate."

[[F96](2) In section 21 of the [M68]Local Government (Scotland) Act 1975 (appointment and functions of Commissioner for Local Administration in Scotland) there shall be inserted, after subsection (4), the following subsection—

"(4A) The Commissioner may, after consultation with such associations of local authorities as appear to him to be appropriate, provide to the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to him to be appropriate and may arrange for it to be published for the information of the public."**]**

Textual Amendments

F96 S. 23(2) repealed (S.) (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 13(a)**; S.S.I. 2002/467, **art. 2**

Marginal Citations

M68 1975 c. 30.

24 Expenses of Commissions for Local Administration.

(1) The following provisions shall be substituted for paragraphs 6 to 11 of Schedule 4 to the Local Government Act 1974—

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Expenses of the Commissions

"6 (1) Each of the Commissions shall be treated as if they were a specified body for the purposes of sections 78 and 79 (revenue support grant) of the Local Government Finance Act 1988 ("the 1988 Act"), and those sections shall accordingly have effect with the following modifications.

(2) Before making a determination under section 78 of the 1988 Act, the Secretary of State shall, except in the case mentioned in paragraph 8 below, take into account estimates of the expenses of each Commission together with any observations thereon made and submitted to him in accordance with paragraph 7 below.

(3) The Secretary of State may also take into account any other information available to him as to the expenses of the Commissions, whatever its source.

(4) A determination under section 78 of the 1988 Act shall not be invalid merely because the requirements of paragraph 7 below were not complied with.

(5) For the purposes of section 78(7) of the 1988 Act, each Commission shall be treated as if they were also a notifiable authority.

"7 (1) Each Commission shall prepare an estimate of the expenses which they will incur in the forthcoming financial year with a view to submitting it to the Secretary of State.

(2) Each Commission shall send copies of the estimate to such representatives of local government as the Secretary of State directs for consideration by those representatives.

(3) Any observations by those representatives shall be submitted to the Commission within one month of the receipt of the Commission's estimate, and it shall be the duty of the Commission to take any such observations into consideration before submitting their estimate of their expenses to the Secretary of State.

(4) Each Commission shall, not later than such date in any year as the Secretary of State specifies in writing to the Commission, submit their estimate of their expenses for the forthcoming financial year to the Secretary of State together with copies of all observations made under this paragraph by the representatives of local government or, if none were made, together with a statement of that fact.

"8 Where a Commission fail to submit an estimate of their expenses for the forthcoming financial year under paragraph 7 above, the Secretary of State may, for the purposes of a determination under section 78 of the 1988 Act, assume those expenses to be such as he sees fit."

(2) Anything done before the passing of this Act which corresponds to a thing authorised or required to be done by any provision of the paragraphs 6(2) and (3), 7 and 8 substituted by subsection (1) above and done for the purposes ofsections 78 and 79 of the [M69]Local Government Finance Act 1988 shall be treated as validly done under that provision and those sections shall have effect accordingly.

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(3) The foregoing provisions shall have effect for the financial years beginning on or after 1st April 1990.

Marginal Citations
M69 1988 c. 41.

25 Annual reports of Commissions: new provisions.

(1) The representative body for England and the representative body for Wales designated under section 24 of the [M70]Local Government Act 1974 are hereby dissolved and accordingly that section shall cease to have effect.

(2) After section 23 of that Act there shall be inserted the following section—

"**23A Annual reports for representatives etc.**

(1) For the financial year ending in 1990 and for each subsequent financial year, each of the Commissions shall prepare a general report on the discharge of their functions and shall submit it—

(a) to such persons as appear to the Commission to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies, and

(b) in the case of such authorities as are not so represented, to those authorities.

(2) The report shall be submitted as soon as may be after the Commission have received the reports for the year from Local Commissioners under section 23(11) above, and each Commission shall submit copies of those reports, together with their own report.

(3) Each Commission shall arrange for the publication of the report submitted by them under subsection (1) above and of the reports of which copies are submitted by them under subsection (2) above.

(4) Before arranging for the publication of a report under subsection (3) above the Commission concerned shall give a reasonable opportunity for the representative persons and authorities to whom the report was submitted to comment on it.

(5) Without prejudice to the generality of subsection (4) above, comments made by the representative persons and authorities by virtue of that subsection may relate to particular classes of authorities to which this Part of this Act applies.

(6) Where the Commission for Local Administration in Wales consist of only one Local Commissioner, section 23(11) above and subsection (2) above shall have effect with the necessary modifications."

Marginal Citations
M70 1974 c. 7.

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26 Implementation of recommendations of Commissioners for Local Administration in England and Wales.

(1) In section 31 of the Local Government Act 1974 (action to be taken in relation to adverse reports), the following subsections shall be substituted for subsections (1) to (2A)—

"(1) This section applies where a Local Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.

(2) The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Local Commissioner may agree in writing, to notify the Local Commissioner of the action which the authority have taken or propose to take.

(2A) If the Local Commissioner—

(a) does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or

(b) is not satisfied with the action which the authority concerned have taken or propose to take, or

(c) does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Local Commissioner,

he shall make a further report setting out those facts and making recommendations.

(2B) Those recommendations are such recommendations as the Local Commissioner thinks fit to make with respect to action which, in his opinion, the authority concerned should take to remedy the injustice to the person aggrieved and to prevent similar injustice being caused in the future.

(2C) Section 30 above, with any necessary modifications, and subsection (2)above shall apply to a report under subsection (2A) above as they apply to a report under that section.

(2D) If the Local Commissioner—

(a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that subsection has expired that the authority concerned have decided to take no action, or

(b) is not satisfied with the action which the authority concerned have taken or propose to take, or

(c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Local Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action,as proposed, to the satisfaction of the Local Commissioner,

he may, by notice to the authority, require them to arrange for a statement to be published in accordance with subsections (2E) and (2F) below.

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(2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Local Commissioner may agree,consisting of—

(a) details of any action recommended by the Local Commissioner in his furtherreport which the authority have not taken;

(b) such supporting material as the Local Commissioner may require; and

(c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.

(2F) The requirements for the publication of the statement are that—

(a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Local Commissioneror, in default of agreement, nominated by him; and

(b) publication in the first such edition shall be arranged for the earliest practicable date.

(2G) If the authority concerned—

(a) fail to arrange for the publication of the statement in accordance with subsections (2E) and (2F) above, or

(b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Local Commissioner may agree in writing, to agree with the Local Commissioner the form of the statement to be published,

the Local Commissioner shall arrange for such a statement as is mentioned in subsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

(2H) The authority concerned shall reimburse the Commission on demand any reasonable expenses incurred by the Local Commissioner in performing his duty under subsection (2G) above."

(2) This section shall not have effect in relation to a report made before the coming into force of this section.

[F97 27 Implementation of recommendations of Commissioner for Local Administrationin Scotland.

(1) In section 29 of the M71 Local Government (Scotland) Act 1975 (action to be taken in relation to adverse reports), the following subsections shall be substituted for subsections (1) to (2A)—

"(1) This section applies where the Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.

F98 [(2) The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Commissioner may agree in writing, to notify the Commissioner of the action which the authority have taken or propose to take.]]

(2A) If the Commissioner—

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(a) does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or

(b) is not satisfied with the action which the authority concerned have take nor propose to take, or

(c) does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,

he shall make a further report setting out those facts and making recommendations.

(2B) Those recommendations are such recommendations as the Commissioner thinks fit to make with respect to the action which, in his opinion, the authority concerned should take to remedy the injustice to the person aggrieved and to prevent similar injustice being caused in the future.

(2C) Section 28 of this Act, with any necessary modifications, and subsection (2) above shall apply to a report under subsection (2A) above as they apply to a report under that section.

(2D) If the Commissioner—

(a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that subsection has expired that the authority concerned have decided to take no action; or

(b) is not satisfied with the action which the authority concerned have taken or propose to take; or

(c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,

he may, by notice to the authority, require them to arrange for astatement to be published in accordance with subsections (2E) and (2F) below.

(2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Commissioner may agree, consisting of—

(a) details of any action recommended by the Commissioner in his further report which the authority have not taken;

(b) such supporting material as the Commissioner may require; and

(c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.

(2F) The requirements for the publication of the statement are that—

(a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Commissioner or, indefault of agreement, nominated by him; and

(b) publication in the first such edition shall be arranged for the earliest practicable date.

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(2G) If the authority concerned—

(a) fail to arrange for the publication of the statement in accordance withsubsections (2E) and (2F) above, or

(b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Commissioner may agree in writing, to agree with the Commissioner the form of the statement to be published,

the Commissioner shall arrange for such a statement as is mentioned insubsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

(2H) The authority concerned shall reimburse the Commissioner on demand any reasonable expenses incurred by the Commissioner in performing his duty under subsection (2G) above."

(2) In section 32 of the [M72]Local Government (Scotland) Act 1975 (interpretation of provisions about investigations by the Commissioner) the following subsection shall be inserted after subsection (2)—

"(2A) Except in the case of a joint board or joint committee, references in this Part of this Act to the authority concerned are, in relation to action taken by or on behalf of an authority to whom this Part of this Act applies (whether by virtue of subsection (1) or (2) of section 23 of this Act), references to that authority."

(3) This section shall not have effect in relation to a report made before the coming into force of this section.

Textual Amendments

F97 S. 27 repealed (S.) (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 13(b)**; S.S.I. 2002/467, **art. 2**

F98 S. 27(2) repealed (S.) (21.5.1997) by 1997 c. 35, ss. 10, 11(2), **Sch.**

Marginal Citations

M71 1975 c. 30.

M72 1975 c. 30.

28 Consideration of adverse reports: England and Wales.

(1) The following section shall be inserted after section 31 of the [M73]Local Government Act 1974—

"**31A Consideration of adverse reports.**

(1) Subject to subsection (3) below, any power of an authority to have their functions discharged by any person or body of persons acting for the authority shall, as respects the consideration of a further report of the Local Commissioner under section 31(2A) above, be subject to the restriction that, if it is proposed that the authority should take no action on, or not the action recommended in, the report, consideration of the report shall be referred to the authority.

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(2) Consideration of a further report of the Local Commissioner under section 31(2A) above by any such committee of a local authority as is referred to in an enactment specified in section 101(9) of the Local Government Act 1972 or by any appeal committee constituted in accordance with paragraph 1 of Schedule 2 to the Education Act 1980 shall be subject to a corresponding restriction.

(3) The restriction imposed by subsections (1) and (2) above does not apply where the report recommends action to be taken by—

(a) a joint committee established under the said section 101, or

(b) any committee referred to in an enactment specified in paragraph (c), (d) or (h) of the said section 101(9).

(4) If an authority considering a further report of the Local Commissioner under section 31(2A) above take into consideration a report by a person or body with an interest in the Local Commissioner's report, they shall not conclude their consideration of the Local Commissioner's report without also having taken into consideration a report by a person or body with no interest in the Local Commissioner's report.

(5) No member of an authority to which this Part of this Act applies or of a committee mentioned in subsection (2) or (3) above shall vote on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by a Local Commissioner.

(6) Section 25(4) and (5) above do not apply to this section."

(2) This section shall not have effect in relation to a report made before the coming into force of section 26 above.

Marginal Citations

M73 1974c. 7.

[F99 29 Consideration of adverse reports: Scotland.

(1) The following section shall be inserted after section 29 of the M74Local Government (Scotland) Act 1975—

" **Consideration of adverse reports.**

(1) Subject to subsection (3) below, any power of an authority to have their functions discharged by any person or body of persons acting for the authority shall, as respects the consideration of a further report of the Commissioner under section 29(2A) of this Act, be subject to the restriction that, if it is proposed to take no action on, or not the action recommended in, there port, consideration of the report shall be referred to the authority.

(2) Consideration of a further report of the Commissioner under section 29(2A)of this Act by—

(a) any such committee as is mentioned in section 23(2) of this Act; or

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(b) an education committee appointed under section 124 of the Act of 1973;

shall be subject to a corresponding restriction.

(3) The restriction imposed by subsections (1) and (2) above does not apply where the report recommends action to be taken by a joint committee—

(a) established under section 56 of the Act of 1973 or under paragraph 7 of Schedule 10 or paragraph 6 of Schedule 20 to that Act (local authority, education and social work joint committees); or

(b) referred to in paragraph (a), (b), or (e) of section 23(2) of this Act (fire, police and local government and teachers' superannuation joint committees).

(4) If an authority considering a further report of the Commissioner under section 29(2A) of this Act take into consideration a report by a person or body with an interest in the Commissioner's report, they shall not conclude their consideration of the Commissioner's report without also having taken into consideration a report by a person or body with no interest in the Commissioner's report.

(5) No member of an authority to which this Part of this Act applies or of a committee mentioned in subsection (2) or (3) above shall vote on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by the Commissioner."

(2) This section shall not have effect in relation to a report made before the coming into force of section 27 above.**]**

Textual Amendments

F99 S. 29 repealed (S.) (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 13(c)**; S.S.I. 2002/467, **art. 2**

Marginal Citations

M74 1975c. 30.

30 Declaration of acceptance of office of councillor etc.

(1) Before section 34 of the [M75]Local Government (Scotland) Act 1973 there shall be inserted the following section—

" Acceptance of Office

33A Declaration of acceptance of office of councillor.

(1) A person elected to office as a councillor of a local authority shall not, unless—

(a) he has made a declaration of acceptance of office in a form prescribed by an order made by the Secretary of State; and

(b) the declaration has within two months from the day of the election been delivered to the proper officer of the local authority,

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act in the office except for the purpose of taking such a declaration.

(2) If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected shall at the expiration of that time become vacant.

(3) The declaration shall be made before either—

(a) two members of the local authority to which the declarant is elected; or

(b) the proper officer of the local authority; or

(c) the sheriff; or

(d) a justice of the peace.

(4) Any person before whom a declaration is authorised to be made under this section may take the declaration."

(2) In section 83 of the [M76]Local Government Act 1972 (declaration of acceptance of office) in subsection (1) and subsection (4), for the words "rules under section 42 above" there shall be substituted the words " an order made by the Secretary of State ".

Marginal Citations

M75 1973 c. 65.

M76 1972 c. 70.

31 National Code of Local Government Conduct.

[F100(1) The Secretary of State, for the guidance of members of local authorities, may issue a code of recommended practice as regards the conduct of members of such authorities to be known as the National Code of Local Government Conduct.

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

(3) The Secretary of State, before issuing, revising or withdrawing a code, shall consult—

(a) as respects England and Wales, such representatives of local government,and

(b) as respects Scotland, such associations of local authorities,

as appear to him to be appropriate.

(4) 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.

(5) 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 copiesare 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).

(6) In reckoning any period of 40 days for the purposes of subsection (5) above 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.

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[F101(6A) Subsections (4) to (6) above do not apply to a code which applies only to Scotland and such a code shall not be issued unless a draft of it has been laid before and approved by a resolution of the Scottish Parliament.

F101(6B) Where the Scottish Ministers propose to revise such a code as is mentioned in subsection (6A), they shall lay a draft of the proposed alterations before the Scottish Parliament and–

(a) they 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; and

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

F101(6C) In reckoning any period of 40 days for the purposes of subsection (6B) above no account shall be taken of any time during which the Parliament is dissolved or is in recess for more than 4 days.**]**

(7) The form of declaration of acceptance of office under section 83 of the M77Local Government Act 1972 or section 33A of the M78Local Government (Scotland) Act 1973 may include an undertaking by the declarant to be guided by the National Code of Local Government Conduct in the performance of his functions.

(8) In this section—

"local authority" means—

(a) as respects England and Wales, a county council **[**F102a county borough council,**]**, a district council, a London borough council, a parish council, a community council, the Common Council of the City of London or the Council of the Isles of Scilly;

(b) as respects Scotland, a **[**F103council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]** or a joint board or joint committee within the meaning of section 235(1) of the Local Government (Scotland) Act 1973; and

"member", in relation to a local authority, includes any person who, whether or not a member of the authority, is a member of a committee or sub-committee of the authority or of any joint committee of theirs.**]**

Textual Amendments

F100 S. 31 repealed (S.) (1.5.2003) by Local Government in Scotland Act 2003 (asp 1), **ss. 60(1)(g)**, 62(2); S.S.I. 2003/134, art. 2(2)

F101 S. 31(6A)-(6C) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. para. 97** (with art. 5); S.I. 1998/3178, **art. 3**

F102 S. 31(8): words in para. (a) of the definition of "local authority" inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(4)**

F103 S. 31(8): words in para. (b) of the definition of "local authority" substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(9)**; S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

C40 S. 31 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 11**
S. 31 applied (temp.) (4.5.1995 to 31.3.1996) by S.I. 1995/1042, **art. 4(1)**
S. 31 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 9** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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S. 31 excluded (E.) (temp.) (27.11.2001 to 27.7.2002) by S.I. 2001/3576, **art. 3(1)(c)**

Marginal Citations

M77 1972 c. 70.

M78 1973 c. 65.

32 Anonymity in reports on investigations.

(1) In section 30 of the [M79] Local Government Act 1974 (reports on investigations by Local Commissioners)—

(a) in subsection (3) (report only to identify a person if the Local Commissioner thinks it necessary), after the words "shall not" there shall be inserted the words ", except where subsection (3A) below applies,"; and

(b) the following subsection shall be inserted after subsection (3)—

"(3A) Where the Local Commissioner is of the opinion—

(a) that action constituting maladministration was taken which involved amember of the authority concerned, and

(b) that the member's conduct constituted a breach of the National Code of Local Government Conduct,

then, unless the Local Commissioner is satisfied that it would be unjust to do so, the report shall name the member and give particulars of the breach."

[F104](2) . . . . . .

Textual Amendments

F104 S. 32(2) repealed (S.) (1.5.2003) by Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), s. 37(2), **sch. 4** (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

Marginal Citations

M79 1974 c. 7.

PART III

ECONOMIC DEVELOPMENT AND DISCRETIONARY EXPENDITURE BY LOCAL AUTHORITIES

[F105]33 . . . . . .

Textual Amendments

F105 S. 33 repealed (28.7.2001) by 2000 c. 22, ss. 107, 108(4), Sch. 5 para. 27, **Sch. 6**

[F106]34 . . . . . .

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F106 S. 34 repealed (18.10.2000 for E. and 9.4.2001 for W.) by 2000 c. 22, s. 107, Sch. 5 para. 27, **Sch. 6**; S.I. 2000/2836, **art. 2(b)(iv)**; S.I. 2001/1471, **art. 2**

F107 35 . . . . . .

Textual Amendments

F107 S. 35 repealed (18.10.2000 for E. and 9.4.2001) by 2000 c. 22, s. 107, **Sch. 6**; S.I. 2000/2836, **art. 2(b)(iv)**; S.I. 2001/1471, **art. 2**

36 Amendments of existing power to incur discretionary expenditure.

(1) Section 137 of the [M80]Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised) shall be amended in accordance with subsections (2) to (8) below and, accordingly, after the coming into force of this section, shall have effect as set out in Schedule 2 to this Act.

(2) In subsection (1), after the words "in the interests of" there shall be inserted " and will bring direct benefit to "; after the words "incur any expenditure" there shall be inserted " (a) " and at the end there shall be added the words "nor

(b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred".

(3) After subsection (1) there shall be inserted the following subsection—

"(1A) In any case where—

(a) by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and

(b) the power or duty of the authority to incur expenditure for that purposeis in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),

the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitationor condition."

(4) Subsections (2A) and (2B) (which relate to the giving of financial assistance to persons carrying on commercial or industrial undertakings) shall cease to have effect and, in subsection (2C), paragraph (a) (which relates to publicity on the promotion of the economic development of the authority's area) shall also cease to have effect.

(5) In subsection (3) (contributions permitted to charitable and public service funds etc.), —

(a) for the words "as aforesaid" there shall be substituted " to the following provisions of this section ";

(b) in paragraph (b) after the words "public service" there shall beinserted " (whether to the public at large or to any section of it) "; and

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(c) at the end of paragraph (c) there shall be added " or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973 ".

(6) In subsection (4) (expenditure not to exceed the product of a 2p rate) for the words following "not exceed" there shall be substituted "the amount produced by multiplying —

(a) such sum as is for the time being appropriate to the authority under subsection (4AA) below, by

(b) the relevant population of the authority's area";and subsection (8) (which relates to the computation of a 2p rate) shall cease to have effect.

(7) After subsection (4) there shall be inserted the following subsections—

"(4AA) For the purposes of subsection (4)(a) above, except in so far as the Secretary of State by order specifies a different sum in relation to an authority of a particular description,—

(a) the sum appropriate to a county council or the council of a non-metropolitan district is £2.50;

(b) the sum appropriate to a metropolitan district council, a London borough council or the Common Council is £5.00; and

(c) the sum appropriate to a parish or community council is £3.50.

(4AB) For the purposes of subsection (4)(b) above the relevant population of a local authority's area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of theHouse of Commons."

(8) In subsection (4B) (amounts deductible in determining expenditure under the section) for paragraph (a) there shall be substituted the following paragraph—

"(a) the amount of any expenditure which forms part of the authority's gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure)".

(9) In section 83(3) of the [M81]Local Government (Scotland)Act 1973 (contributions permitted to charitable and public service funds etc.), at the end of paragraph (c) there shall be added " or by such a person or body as is referred to in section 137(3)(c) of the Local Government Act 1972 ".

Marginal Citations

M80 1972 c. 70.

M81 1973 c. 65.

37 Conditions of provision of financial assistance.

After section 137 of the [M82]Local Government Act 1972 there shall be inserted the following section—

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"**137A Financial assistance to be conditional on provision of information.**

(1) If in any financial year a local authority provides financial assistance—

(a) to a voluntary organisation, as defined in subsection (2D) of section 137above, or

(b) to a body or fund falling within subsection (3) of that section,

and the total amount so provided to that organisation, body or fund in that year equals or exceeds the relevant minimum, then, as a condition of the assistance, the authority shall require the organisation, body or fund, within the period of twelve months beginning on the date when the assistance is provided, to furnish to the authority a statement in writing of the use to which that amount has been put.

(2) In this section "financial assistance" means assistance by way of grant or loan or by entering into a guarantee to secure any money borrowed and, in relation to any financial assistance,—

(a) any reference to the amount of the assistance is a reference to the amount of money granted or lent by the local authority or borrowed in reliance on the local authority's guarantee; and

(b) any reference to the date when the assistance is provided is a referenceto the date on which the grant or loan is made or, as the case may be, on which the guarantee is entered into.

(3) The relevant minimum referred to in subsection (1) above is £2,000 or such higher sum as the Secretary of State may by order specify.

(4) It shall be a sufficient compliance with a requirement imposed by virtue of subsection (1) above that there is furnished to the local authority concerned an annual report or accounts which contain the information required to be in the statement.

(5) A statement (or any report or accounts) provided to a local authority in pursuance of such a requirement shall be deposited with the proper officer of the authority.

(6) In this section "local authority" includes the Common Council."

Marginal Citations
M82 1972 c. 70.

38 Information etc. on individuals' rights.

(1) Section 142 of the [M83]Local Government Act 1972 (provision of information, etc.) shall be amended as follows.

(2) There shall be inserted after subsection (2)—

"(2A) A local authority may assist voluntary organisations to provide for individuals—

(a) information and advice concerning those individuals' rights and obligations; and

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(b) assistance, either by the making or receiving of communications or by providing representation to or before any person or body, in asserting those rights or fulfilling those obligations."

Marginal Citations

M83 1972 c. 70.

F108F109 PART IV

REVENUE ACCOUNTS AND CAPITAL FINANCE OF LOCAL AUTHORITIES

Textual Amendments

F108 Pt. IV (ss. 39-66) excluded (4.10.1993) by S.I. 1993/2171, **art. 5(3)**

F109 Pt. IV repealed (18.11.2003 for E. for specified purposes and the repeal of ss. 45, 53) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 29**, Sch. 8; S.I. 2003/2938, art. 3(h) (with art. 8, Sch.)

Modifications etc. (not altering text)

C41 Pt. IV (ss. 39–66) modified by S.I. 1990/404, **art. 3**,S.I. 1990/419, **art. 14(5)(7)**, S.I. 1990/719, arts. 2(1), 3(2), 4(1) and S.I.1990/720, **arts. 2**, 3, 4, 6

C42 Pt. IV (ss. 39–66) amended by S.I. 1990/432, **reg. 27**

C43 Pt. IV (ss. 39–66) modified by S.I. 1989/814, **art. 7**(as amended by S.I. 1990/778, art. 2, **Sch. para. 7**) and S.I. 1989/1359, **art.7** (as amended by S.I. 1990/778, art. 2, **Sch. para. 8**)

C44 Pt. IV (ss. 39–66) amended by Housing Act 1988 (c. 50,SIF 61), **s. 74(6)** (as amended by S.I. 1990/778, **art. 2 Sch. para. 1**) and s.104(5) (as amended by S.I. 1990/778, **art. 2 Sch. para. 2**)

C45 Pt. IV (ss. 39–66) modified by S.I. 1990/1024, **arts.8(1)(2)**, 11(2)
Pt. IV (ss. 39-66) modified (31.3.1994) by S.I. 1994/566, **art. 5(4)**
Pt. IV (ss. 39-66) modified (31.3.1994) by S.I. 1994/695, **art. 5(3)**
Pt. IV (ss. 39-66) applied (*temp.*) (4.5.1995) by S.I. 1995/1042, **art. 4(1)**
Pt. IV (ss. 39-66) applied (with modifications) (1.4.1996) by S.I. 1996/604, **art. 3(2)**
Pt. IV excluded (25.9.1995) by S.I. 1995/2248, **art. 5(4)**
Pt. IV (ss. 39-66) power to make provision about matters of the kind dealt with in this part conferred (1.9.1997) by 1997 c. 50 s. 44(1), Sch. 4 para. (j)(ii); S.I. 1997/1930, **art. 2(1)(2)(m)**
Pt. IV (ss. 39-66) (except ss. 53, 55) modified (3.7.2000) by 1999 c. 29, **s. 118(1)(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. 3**
Pt. IV (ss. 39-66) modified (1.4.1997) by 1999/319, reg. 160(1)(2)

C46 Pt. IV (ss. 39-66) modified by S.I. 1991/548, **art.3**

C47 Pt. IV (ss. 39-66) restricted (6.4.1992) by S.I. 1992/581, **art. 5(4)**

C48 Pt. IV (ss. 39-66) modified (20.7.1993) by 1993 c. 28, **s. 136(7)**
Pt. IV (ss. 39-66) modified (1.4.1995) by S.I. 1995/849, **arts. 1(2)(c)**, 13-18

C49 Pt. IV (ss. 39-66) applied (with modifications) (W.) (1.9.2002) by S.I. 1995/849, arts. 14-18 (as amended by The Local Authorities (Companies) (Amendment) (Wales) Order 2002 (S.I. 2002/2118), arts. 1(2), **2**)

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Introductory

39 Application of Part IV.

(1) For financial years beginning on or after 1st April 1990, this Part has effect with respect to the finances of the following authorities (in this Part referred to as "local authorities")—

(a) a county council;

[[F110]**[** a county borough council;**]** [F111](aa)**]**

(b) a district council;

[[F112](bb) the Greater London Authority;

(bc) a functional body, within the meaning of the Greater London Authority Act 1999;**]**

(c) a London borough council; **[**[F113]or**]**

(d) the Common Council of the City of London;

(e) the Council of the Isles of Scilly;

[[F114](ea) the Greater London Magistrates' Courts Authority;**]**

(f) an authority established under section 10 of the [M84]Local Government Act 1985 (waste disposal authorities);

(g) a joint authority established by Part IV of that Act (**[**[F115]police,**]**fire services, civil defence and transport);

[F116](h) . . . . . .

[[F117](hh) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990;**]**

(i) the Broads Authority;

[[F118](ia) a National Park authority;**]**

[[F119](ib) a fire authority constituted by a combination scheme made under section 6 of the Fire Services Act 1947 in consequence of an order made under Part II of the Local Government Act 1992 **[**[F120]or section 17 of the Regional Assemblies (Preparations) Act 2003**]** or in consequence of the provisions of the Local Government (Wales) Act 1994;**]**

[[F121](j) a police authority established under **[**[F122]section 3 of the Police Act 1996**]]**; [M85]

(ja) [F123] . . . . . .

(k) any other body prescribed by regulations under subsection (3) below.

(2) The reference in subsection (1)(d) above to the Common Council of the City of London is a reference to that Council in their capacity as a local authority, a police authority or a port health authority.

(3) The Secretary of State may by regulations prescribe for the purposes of subsection (1)(k) above any body which is (or any class of bodies each of which is)—

(a) a levying body, within the meaning of section 74 of the [M86]Local Government Finance Act 1988;

(b) a body to which section 75 of that Act applies (bodies having power to issue special levies);

[[F124](c) a body to which section 118 of that Act applies;

(d) a local precepting authority, as defined in section 69 of the Local Government Finance Act 1992; or

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(e) the Receiver for the Metropolitan Police District.**]**

(4) Regulations under subsection (3) above may provide that, in relation to a body prescribed by the regulations, the following provisions of this Part shall have effect subject to such modifications as may be specified in the regulations.

(5) For the purposes of the application of this Part, the Secretary of State may by order make provision for treating things done by or to—

(a) a company which, in accordance with Part V of this Act, is under the control of a local authority, or

(b) a company which, in accordance with that Part, is for the time being subject to the influence of an authority, or

(c) a trust to which, by virtue of an order under section 72 below, the provisions of section 69 below are applicable, or

(d) a Passenger Transport Executive and any company which, in accordance with that Part, is either under the control or for the time being subject to the influence of such an Executive,

in such cases and to such extent as may be provided in the order as if they were done by or to the local authority specified or determined in accordance with the order; and, where an order so provides in relation to a local authority, that authority together with any companies and Executive concerned are in subsection (6) below referred to as members of a local authority group.

(6) Without prejudice to the generality of subsection (5) above, an order under that subsection—

(a) may provide for the application of the provisions of this Part to the members of a local authority group subject to such modifications as may be specified in the order;

(b) may make provision as to the way in which dealings between members of a local authority group and changes in the capitalisation or capital structure of any company in a local authority group are to be brought into account for the purposes of this Part; and

(c) may contain such incidental, supplementary and transitional provisions as the Secretary of State considers appropriate.

(7) The power to make an order under subsection (5) above—

(a) shall be exercisable by statutory instrument subject to annulment inpursuance of a resolution of either House of Parliament; and

(b) may make different provision in relation to different cases or descriptions of case.

(8) This Part has effect in place of the provisions of Part VIII of the [M87]Local Government, Planning and Land Act 1980.

Textual Amendments

F110 S. 39(1)(bb) inserted (3.4.1995) by 1994 c. 19, s. 66(6), **Sch. 16 para. 88** (with ss. 54(5)(7), 55(5), Sch. 17 paras 22(1), 23(2)); S.I. 1995/852, art. 9(1), **Sch. 5**

F111 S. 39(1)(bb) renumbered as para. (aa) (8.5.2000 for certain purposes otherwise 3.7.2000) by 1999 c. 29, **s. 111(1)(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pt. 2, **3**

F112 S. 39(1)(bb)(bc) inserted (8.5.2000 for certain purposes otherwise 3.7.2000) by 1999 c. 29, **s. 111(1)(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pts. 2, **3**

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F113 Word in s. 39(1)(c) inserted (8.5.2000 for certain purposes otherwise 3.7.2000) by 1999 c. 29, **s. 111(1)(4)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pts. 2, **3**

F114 S. 39(1)(ea) inserted (1.4.2001) by 1999 c. 22, s. 83, Sch. 12 paras. 4, **5** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (with savings in Sch. 2 para. 2)

F115 Word in s. 39(1)(g) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F116 S. 39(1)(h) 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.**

F117 S. 39(1)(hh) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F118 S. 39(1)(ia) inserted (19.9.1995) by 1995 c. 25, **ss. 73**, 125(2) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

F119 S. 39(1)(ib) substituted for para. (ia) (13.3.1996) by S.I. 1996/633, **art. 2**

F120 Words in s. 39(1)(ib) inserted (8.5.2003) by Regional Assemblies (Preparations) Act 2003 (c. 10), s. 27(2), **Sch. para. 4**

F121 S. 39(1)(j) substituted (1.4.1995) by 1994 c. 29, **s. 30**; S.I. 1994/3262, **art. 4 Sch.** (subject to art. 5)

F122 Words in s. 39(1)(j) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7**, Pt. I para. 1(2)(zd)

F123 S. 39(1)(ja) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. II para. 51, Sch. 7 Pt. V para. 1; S.I. 2002/344, **art. 3** (with transitional provisions in art. 4)

F124 S. 39(3)(c)(d)(e) substituted for s. 39(3)(c)(d) (2.11.1992) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 90** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 2**

Marginal Citations

M84 1985 c. 51.

M85 1996 c. 16.

M86 1988 c.41.

M87 1980 c. 65.

40 Capital purposes.

(1) References in this Part to expenditure for capital purposes shall be construed in accordance with this section.

(2) Subject to subsections (5) and (6) below, the following expenditure (relating to tangible assets) is expenditure for capital purposes, namely, expenditure on—

(a) the acquisition, reclamation, enhancement or laying out of land, exclusive of roads, buildings and other structures;

(b) the acquisition, construction, preparation, enhancement or replacement of roads, buildings and other structures; and

(c) the acquisition, installation or replacement of movable or immovable plant, machinery and apparatus and vehicles and vessels.

(3) For the purposes of subsection (2) above, "enhancement", in relation to any asset, means the carrying out of works which are intended—

(a) to lengthen substantially the useful life of the asset; or

(b) to increase substantially the open market value of the asset; or

(c) to increase substantially the extent to which the asset can or will be used for the purposes of or in connection with the functions of the local authority concerned;

but expenditure on the enhancement of an asset shall not be regarded as expenditure for capital purposes unless it should be so regarded in accordance with proper practices.

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(4) Subject to subsection (5) below, the following expenditure, in so far as it is not expenditure on approved investments, is expenditure for capital purposes, namely, expenditure on—

(a) the making of advances, grants or other financial assistance to any person towards expenditure incurred or to be incurred by him on the matters mentioned in paragraphs (a) to (c) of subsection (2) above or on the acquisition of investments; and

(b) the acquisition of share capital or loan capital in any body corporate.

(5) The Secretary of State may by regulations provide—

(a) that expenditure which, apart from the provision made by the regulations, would not be expenditure for capital purposes shall be such expenditure; or

(b) that expenditure which, apart from the provision made by the regulations, would be expenditure for capital purposes shall not be such expenditure.

(6) Notwithstanding anything in the preceding provisions of this section, if the Secretary of State so directs, expenditure which—

(a) is of a description or for a purpose specified in the direction, and

(b) has been or is to be incurred by a particular local authority, and

(c) does not exceed such amount as is specified in the direction, and

(d) was or will be incurred during a period specified in the direction,

may be treated by the authority concerned as expenditure for capital purposes.

Modifications etc. (not altering text)

C50 S. 40 applied (19.6.1997) by 1997 c. 25, **ss. 72(1)**, 74(1)

C51 S. 40(2) amended by S.I. 1990/432, **reg. 2(3)** (as added by S.I. 1991/500, **reg. 2(1)**)

C52 S. 40(4) amended by S.I. 1990/432, **reg. 2(6)** (as added by S.I. 1991/500, **reg. 2(a)**)

Charge of expenditure to revenue accounts

41 Expenditure to be charged to revenue account.

(1) All expenditure incurred by a local authority, other than expenditure excluded by section 42 below, must be charged to a revenue account of the authority and unless, in accordance with proper practices (exclusive of this subsection), it is appropriate to charge some or all of any particular item of expenditure to a revenue account for an earlier or a later financial year, the expenditure shall be charged to a revenue account of the authority for the year in which it is incurred.

(2) In relation to a local authority, any reference to a revenue account is a reference to one of the following accounts for a financial year of the authority, namely—

(a) a revenue account which the authority are required to keep by virtue of any enactment;

(b) a revenue account which the authority are required to keep in order to comply with proper practices; or

(c) any other revenue account which the authority decide to keep in accordance with proper practices.

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(3) The reference in subsection (1) above to expenditure incurred by a local authority in any financial year includes the following (whether or not giving rise to actual payments)—

(a) any amount which does not form part of the authority's capital receipts and which is set aside for the year by the authority as provision to meet credit liabilities, otherwise than by virtue of any of subsections (2) to (4) of section 63 below; and

(b) any other amount which is set aside for the year by the authority as reasonably necessary for the purpose of providing for any liability or loss which is likely or certain to be incurred but is uncertain as to the amount or the date on which it will arise (or both);

and the reference in subsection (5) below to expenditure incurred by a local authority shall be construed in accordance with this subsection.

(4) Subsection (2) above has effect not only for the purposes of this Act but also for the purposes of—

(a) any enactment passed after or in the same Session as this Act; and

(b) any earlier enactment which is amended by this Act or by any such enactment as is referred to in paragraph (a) above.

(5) Nothing in this section or the following provisions of this Part shall permit an authority to charge to a revenue account which they are required to keep by virtue of Part VI of this Act or any other enactment any expenditure incurred by a local authority which could not otherwise be so charged.

Modifications etc. (not altering text)

C53 S. 41(3) applied (6.3.1992) by Local Government Finance Act 1992 (c. 14), **ss. 32(11)**, 43(8), 50(6) (with s. 118(1)(2)(4))

42 Expenditure excluded from section 41(1).

(1) Expenditure falling within subsection (2) below is excluded from the obligation in section 41(1) above but, if it is consistent with proper practices and the authority so wish, any such expenditure may be charged to a revenue account of the authority for the financial year in which it isincurred or an earlier or later financial year.

(2) Subject to subsection (4) below, the expenditure referred to in subsection (1) above is as follows—

(a) expenditure arising from the discharge of any liability of the authority under a credit arrangement, other than an arrangement excluded by regulations under paragraph 11 of Schedule 3 to this Act;

(b) expenditure arising from the discharge of any liability of the authority in respect of money borrowed by the authority, other than a liability in respect of interest;

(c) expenditure which, in reliance on a credit approval, the authority have determined under section 56(1)(a) below is not to be chargeable to a revenue account of the authority;

(d) expenditure on making approved investments;

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(e) expenditure consisting of the application or payment of capital receipts as mentioned in subsections (7) to (9) of section 59 below;

(f) expenditure which is met out of the usable part of capital receipts, in accordance with section 60(2) below;

(g) expenditure for capital purposes which the authority determine is, or is to be, reimbursed or met out of money provided, or to be provided, by anyother person, excluding grants from a Community institution **[**F125other than contributions from any of the Structural Funds**]**;

(h) expenditure in respect of payments out of a superannuation fund which the authority are required to keep by virtue of the M88Superannuation Act 1972; and

(i) expenditure in respect of payments out of a trust fund which is held for charitable purposes and of which the authority are a trustee.

(3) A determination under subsection (2)(g) above may not be made later than 30th September in the financial year following that in which the expenditure in question is incurred.

(4) Regulations made by the Secretary of State may amend subsection (2)above—

(a) by adding a description of expenditure specified in the regulations to the expenditure falling within that subsection; or

(b) by removing a description of expenditure specified in the regulations from the expenditure falling within that subsection (whether the expenditure so specified was within that subsection as originally enacted or was added by virtue of this subsection).

(5) Where, by virtue of subsection (1) above, expenditure of any descriptionis excluded from the obligation in section 41(1) above, it shall also be excluded from any requirement arising under any enactment (including an enactment in Part VI of this Act) under which the expenditure is required to be charged to a revenue account or any particular revenue account; but if—

(a) an authority decide that expenditure of that description should be charged to a revenue account as mentioned in subsection (1) above, and

(b) under any such requirement that expenditure (apart from this subsection) would have to be charged to a particular revenue account,

that expenditure may be charged only to that revenue account.

Textual Amendments

F125 Words in s. 42(2)(g) inserted (1.4.2000) by S.I. 2000/589, **art. 2(1)(2)**

Modifications etc. (not altering text)

C54 S. 42(2) modified by S.I. 1990/432, **reg. 4**

Marginal Citations

M88 1972 c.11.

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Borrowing

43 Borrowing powers.

(1) Subject to the following provisions of this Part, as part of the proper management of their affairs, a local authority may borrow money for any purpose relevant to their functions under any enactment.

(2) Except with the approval of the Secretary of State given with the consent of the Treasury, a local authority may not borrow money in any manner other than—

(a) by overdraft or short term from the Bank of England or from a body or partnership which, at the time the borrowing is undertaken, is **[**F126a deposit-taker**]**; or

(b) from the National Debt Commissioners or from the Public Works Loan Commissioners; or

(c) by means of a loan instrument;

F127 . . .

(3) In the exercise of the powers conferred by paragraphs (a) to (c) of subsection (2) above, a local authority may not, without the consent of theTreasury, borrow from a lender outside the United Kingdom or otherwise than in sterling.

(4) Subject to any provision made by regulations under subsection (5) below, for the purposes of this Part, a loan instrument is any document which, directly or by reference to any other document,—

(a) contains an acknowledgment (by the borrower, the lender or both) that a loan has been made to the local authority concerned or that, in connection with the provision of funds to the authority, a payment or repayment is due from the authority; and

(b) states the dates on which the authority are to make payments or repayments; and

(c) states the amount of each of those payments or repayments or the method by which that amount is to be calculated; and

(d) specifies the means, if any, by which the rights or obligations under the instrument are transferable; and

(e) except in the case of an instrument which is transferable by delivery, specifies the name or description of the person to whom payments or repayments are due; and

(f) in the case of an instrument issued by two or more local authorities acting jointly, states what proportion of the payments or repayments due are the responsibility of each of the authorities concerned.

(5) With the consent of the Treasury, the Secretary of State may make regulations—

(a) regulating the terms of loan instruments and the manner of their issue, transfer or redemption;

(b) restricting the issue of instruments which are transferable by delivery;

(c) regulating the manner in which any payments or repayments are to be made to the holder of the instrument; and

(d) making provision for the custody and, where appropriate, eventual destruction of documents relating to loan instruments;

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and any document which, at the time it comes into being, does not comply with any provision then made under paragraphs (a) to (c) above is not a loan instrument for the purposes of this Part.

(6) Any approval given by the Secretary of State under subsection (2) above and any consent given by the Treasury under subsection (3) above may be given generally or in a particular case or to authorities of a particular description or by reference to borrowing or securities of a particular description and may be given subject to conditions.

(7) In so far as any local authority have power under any private or local Act to borrow money (whether for general or specific purposes), any such power shall cease to have effect for financial years beginning on or after 1st April 1990.

(8) Subject to subsection (7) above, subsections (2) to (6) above apply to all borrowing powers for the time being available to a local authority under any enactment, whenever passed.

[[F128](9) In this section—

(a) "deposit-taker" means—

(i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, or

(ii) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits; and

(b) "short-term", in relation to borrowing, is to be read with section 45(6).

(10) Subsection (9)(a) must be read with—

(a) section 22 of the Financial Services and Markets Act 2000;

(b) any relevant order under that section; and

(c) Schedule 2 to that Act.**]**

Textual Amendments

F126 Words in s. 43(2)(a) substituted (1.12.2001) by S.I. 2001/3649, **art. 318(2)**

F127 Words in s. 43(2) repealed (1.12.2001) by S.I. 2001/3649, **art. 318(3)**

F128 S. 43(9)(10) inserted (1.12.2001) by S.I. 2001/3649, **art. 318(4)**

Modifications etc. (not altering text)

C55 S. 43 applied (with modifications) (*temp.* 4.5.1995 - 31.3.1996) by S.I. 1995/1041, art. 2, **Sch. para. 1**
S. 43 applied (with modifications) (*temp.* 23.11.1995 - 31.3.1996) by S.I. 1995/2803, arts. 2, 19(2), **Sch. 7 Pt. II para. 1**

C56 S. 43 modified (24.6.2003) by The Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003 (S.I. 2003/1633), reg. 1(1), **Sch. 1 paras. 19-21**

C57 S. 43(2) extended (1.1.1993) by S.I. 1992/3218, reg. 82(1), **Sch. 10 Pt. I**, para. 30

44 Borrowing limits etc.

(1) A local authority may not at any time borrow an amount which would cause the total of—

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(a) the amount outstanding at that time by way of principal of money borrowed by the authority, and

(b) the aggregate cost (as determined below) at that time of the credit arrangements entered into by the authority, other than arrangements excluded by regulations under paragraph 11 of Schedule 3 to this Act,

to exceed the aggregate credit limit for the time being applicable to the authority by virtue of section 62 below.

(2) The Secretary of State may by regulations make provision, in the interests of prudent financial management, regulating borrowing by local authorities;and a local authority may not borrow to any extent or in any manner which would contravene any provision of the regulations.

(3) A local authority may not borrow any amount which would cause any limit for the time being determined by the authority under section 45 below to be exceeded.

(4) References in this section and sections 45 to 47 below to borrowing by an authority are references to borrowing not only under section 43 above but also under any other power for the time being available to the authority under any enactment, whenever passed.

(5) For the purposes of subsection (1) above, the temporary use by a local authority for a purpose other than that of the fund in question of money forming part of such a superannuation fund or trust fund as is referred to inparagraph (h) or paragraph (i) of subsection (2) of section 42 above shall be treated as borrowing.

(6) A person lending money to a local authority shall not be bound to enquire whether the authority have power to borrow the money and shall not be prejudiced by the absence of any such power.

Modifications etc. (not altering text)
C58 S. 44(6) excluded (4.5.1995) by S.I. 1995/1041, **art. 2(1)**

45 The authority's own limits.

[[F109](1) For the purposes of this Part, for each financial year every local authority shall determine—

(a) an amount of money (in this Part referred to as "the overall borrowing limit") which is for the time being the maximum amount which the authority may have outstanding by way of borrowing;

(b) an amount of money (in this Part referred to as "the short-term borrowing limit"), being a part of the overall borrowing limit, which is for the time being the maximum amount which the authority may have outstanding by way of short term borrowing; and

(c) a limit on the proportion of the total amount of interest payable by the authority which is at a rate or rates which can be varied by the person to whom it is payable or which vary by reference to any external factors.

(2) Subject to subsection (3) below, the duty to determine the limits referredto in subsection (1) above shall be performed before the beginning of the financial year to which the limits are to relate.

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***Changes to legislation:** Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(3) Where a local authority have determined a limit for a financial year under subsection (1) above, the authority may at any time (whether before or after the beginning of that year) vary that limit by making a new determination thereof.

(4) Section 101 of the [M89]Local Government Act 1972 (arrangements for discharge of functions of local authorities by committees, officers etc.) shall not apply to the duty to make a determination under subsection (1) above of any limit or to the power to vary a limit undersubsection (3) above.

(5) Without prejudice to subsection (4) above, in section 101(6) of the Local Government Act 1972 (which provides that certain functions, including borrowing, shall be discharged only by the authority) the words "or borrowing money" shall be omitted.

(6) For the purposes of subsection (1)(b) above, a local authority borrow money short term if the sum borrowed is repayable—

(a) without notice; or

(b) at less than twelve months notice; or

(c) within twelve months of the date of the borrowing.**]**

Modifications etc. (not altering text)

C59 S. 45 applied (with modifications) (31.3.1995) by S.I. 1995/798, **reg. 5**
S. 45 applied (with modifications) (*temp.* 4.5.1995 - 31.3.1996) by S.I. 1995/1041, **art. 2 Sch. para. 1**
S. 45 applied (with modifications) (23.11.1995) by S.I. 1995/2803, arts. 2, 19(2), **Sch. 7 Pt. II para. 2**

C60 S. 45(2) applied (with modifications) (13.3.1996) by S.I. 1996/633, **art. 3**

Marginal Citations

M89 1972 c. 70.

46 Register of loan instruments and certain existing loans.

(1) Every local authority shall maintain a register giving particulars of all the loans in respect of which loan instruments are issued by or to the authority on or after 1st April 1990 and, if they think it appropriate, a local authority may appoint as a registrar for some or all of the purposes of such a register a person who is neither an officer nor any other employee of the authority.

(2) In the register required to be maintained by a local authority under this section, the authority shall, not later than 30th September 1990, enter particulars of all outstanding loans in respect of which any payment or repayment falls to be made by the authority (whether or not any loan instruments have been issued), other than those resulting from borrowing as mentioned in paragraph (a) or paragraph (b) of subsection (2) of section 43 above; and, for this purpose, an "outstanding loan" is one which was made before 1st April 1990 and in respect of which any payment or repayment falls to be made on or after that date.

(3) Subject to the following provisions of this section, a register required to be maintained under this section shall be in such form as the authority concerned consider appropriate; but that form must be such that the register is, or is capable of being reproduced, in legible form.

(4) A register maintained under this section shall contain, with respect to each loan of which particulars are required to be registered,—

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(a) except in the case of a loan in respect of which there has been issued an instrument (whether or not being a loan instrument) transferable by delivery, the name or description, and the address, of the person to whom payments or repayments are due;

(b) the dates on which the payments or repayments are to be made; and

(c) the amount of each of those payments or repayments or the method by which that amount is to be calculated.

(5) A local authority may remove from a register maintained under this section particulars of any loan in respect of which no more payments or repayments fall to be made.

(6) With the consent of the Treasury, the Secretary of State may make regulations—

(a) generally with respect to the keeping of a register required to be maintained under this section;

(b) modifying all or any of the particulars specified in paragraphs (a) to (c) of subsection (4) above; and

(c) specifying additional particulars which are to be entered in a register maintained under this section.

(7) A copy of an entry in a register maintained under this section which is certified by a registrar of the register and purports to show particulars entered pursuant to subsection (4) or subsection (6) above shall be prima facie evidence of the matters specified in the entry.

(8) A certification by a registrar of a register maintained under this section of any instrument of transfer of a loan instrument is to be taken as are presentation by him to any person acting on the faith of the certification that there have been produced to the registrar such documents as on their face show a prima facie title to the loan instrument in the transferor named in the instrument of transfer; but such a certification shall not be taken as a representation that the transferor has any title to the loan instrument.

(9) If—

(a) the name of any person is, without sufficient cause, entered in or omitted from a register maintained under this section, or

(b) default is made or unnecessary delay takes place in making any entry required to be made in such a register,

the person aggrieved may apply to the High Court or a county court for rectification of the register.

(10) Where an application is made under subsection (9) above, the court—

(a) may refuse the application or order rectification of the register;

(b) may decide any question relating to the title of a person who is a party to the application to have his name entered in or omitted from the register; and

(c) generally may decide any question necessary or expedient to be decided for rectification of the register.

Modifications etc. (not altering text)

C61 S. 46 applied (with modifications) (*temp.* 4.5.1995 - 31.3.1996) by S.I. 1995/1041, art. 2, **Sch. para. 3**
S. 46 applied (with modifications) (23.11.1995) by S.I. 1995/2803, arts. 2, 19(2), **Sch. 7 Pt. II para. 3**

C62 S. 46 modified (24.6.2003) by The Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003 (S.I. 2003/1633), reg. 1(1), **Sch. 1 para. 22**

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47 Security for money borrowed etc.

(1) All money borrowed by a local authority (whether before or after the coming into force of this section), together with any interest thereon, shall be charged indifferently on all the revenues of the authority.

(2) Subject to subsection (3) below, all securities created by a local authority shall rank equally without any priority.

(3) Subsection (2) above does not affect any priority existing at, or any right to priority conferred by a security created before, 1st June 1934.

(4) If at any time any principal or interest due in respect of any borrowing by a local authority remains unpaid for a period of two months after demand in writing, then, subject to subsection (5) below, the person entitled to the sum due may, without prejudice to any other remedy, apply to any court having jurisdiction in respect of a claim for that sum for the appointment of a receiver; and, if it thinks fit, the court may appoint a receiver on such terms and with such powers as the court thinks fit.

(5) No application may be made under subsection (4) above unless the sum due in respect of the borrowing concerned amounts to not less than £5,000 or such other amount as may from time to time be prescribed for the purposes of this subsection by regulations made by the Secretary of State.

(6) The court to whom an application is made under subsection (4) above may confer upon the receiver any such powers of collecting, receiving and recovering the revenues of the local authority and of issuing levies and precepts and setting, collecting and recovering community charges as are possessed by the local authority.

(7) Except as provided by subsection (1) above, a local authority may not mortgage or charge any of their property as security for money borrowed or otherwise owing by them; and any security purporting to be given in contravention of this subsection shall be unenforceable.

Credit arrangements

48 Credit arrangements.

(1) Subject to the following provisions of this section, a local authority shall be taken for the purposes of this Part to have entered into a credit arrangement—

(a) in any case where they become the lessees of any property (whether land or goods); and

(b) in any case (not falling within paragraph (a) above) where, under a single contract or two or more contracts taken together, it is estimated by the authority that the value of the consideration which the authority have still to give at the end of a relevant financial year for or in connection with the provision to the authority of any land, goods or services or any other kind of benefit is greater than the value of the consideration (if any) which the authority were still to receive immediately before the beginning of that financial year; and

(c) in any case where the authority enter into a transaction of a description for the time being prescribed for the purposes of this section by regulations made by the Secretary of State;

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and, in any such case, the "credit arrangement" is the lease, the single contract or, as the case may be, the two or more contracts taken together.

(2) The estimate required to be made under paragraph (b) of subsection (1)above shall be made at the time the contract or, as the case may be, the later or last of the contracts constituting the credit arrangement is entered into;and the reference in that paragraph to a relevant financial year is a reference to a financial year which begins after the contract or, as the case may be, the first of the contracts constituting the arrangement was entered into.

(3) Subject to section 52 below, references in this Part, other than this section, to a credit arrangement do not apply to a credit arrangement which comes into being before 1st April 1990; and for the purpose of this Part acredit arrangement comes into being—

(a) where subsection (1)(a) above applies, at the time the local authority become the lessees;

(b) where subsection (1)(b) above applies, at the time the contract or, as the case may be, the later or latest of the contracts constituting the arrangement is entered into; and

(c) where subsection (1)(c) above applies, at the time the authority enter into the transaction concerned or such other time as may be specified in the regulations concerned.

(4) Where a contract constitutes, or two or more contracts taken together constitute, a credit arrangement, no account shall be taken under this section of any later contract which has the effect of varying the effect of the contract or, as the case may be, of the two or more contracts taken together.

(5) A contract is not a credit arrangement to the extent that it is a contract under which a local authority borrows money; and a lease or contract which is excluded from this section by regulations made by the Secretary of State is not a credit arrangement.

(6) It is immaterial for the purposes of this section whether the consideration given or received by a local authority under any contract is given to or received from the person by whom the land, goods, services or other benefit are in fact provided to the authority; and for the purposes of this section, and any of the following provisions of this Part relating to credit arrangements, in any case where the consideration under a contract consists, in whole or in part,—

(a) of an undertaking to do or to refrain from doing something at a future time (whether specified or not), or

(b) of a right to do or to refrain from doing something at such a future time,

that consideration shall be regarded as neither given nor received until the undertaking is performed or, as the case may be, the right is exercised.

(7) Where the consideration under a contract consists, in whole or in part,of an option, the estimate required to be made under subsection (1)(b) above shall be made—

(a) on the assumption that the option will be exercised or, if the option could be exercised in different ways, on the assumption that it will be exercised in each of those ways, and

(b) on the assumption that the option will not be exercised,

and if, on any of those assumptions, the contract would on those estimates constitute, alone or together with one or more other contracts, a credit arrangement, it shall be regarded as doing so regardless of whether the option is or is not in fact exercised;

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and in this subsection "option" includes any right which is exercisable or not at the discretion of a party to the contract.

(8) If an existing contract is varied and the variation does not in law itself constitute a contract, it shall be regarded as such for the purposes of this section and, accordingly, subject to subsection (4) above, the existing contract and the variation shall be regarded as two contracts to be taken together.

Modifications etc. (not altering text)
C63 S. 48 excluded by S.I. 1990/432, **reg. 6(1)(4)(7)**
S. 48 excluded (1.2.1995) by S.I. 1995/101, **reg. 2**

49 Initial and subsequent cost of credit arrangements.

(1) Subject to subsection (3) and section 52 below, for the purposes of this Part the initial cost of a credit arrangement is the amount which, at the time the arrangement comes into being, the local authority estimate will be the aggregate of—

(a) any consideration which falls to be given by the authority under the arrangement in the financial year in which it comes into being; and

(b) the value of the consideration falling to be given by the authority under the arrangement in any subsequent financial year, determined in accordance with subsection (2) below.

(2) For each subsequent financial year referred to in subsection (1)(b) above,the value of the consideration falling to be given in that year shall be determined by the formula—

$$\frac{x}{\left(1+\frac{r}{100}\right)_{n}}$$

where—

"x" is the amount of the consideration which the authority estimate will be given by them under the arrangement in that financial year;

"r" is the percentage rate of discount prescribed for the financial year in which the arrangement came into being by regulations made by the Secretary of State for the purposes of this section; and

"n" is the financial year in which the consideration falls to be given expressed as a year subsequent to the financial year in which the arrangement came into being (so that the first of the subsequent financial years is 1, the next financial year is 2, and so on).

(3) Subsection (2) above does not apply to a credit arrangement of a description excluded from that subsection by regulations made by the Secretary of State; and, in relation to a credit arrangement which is so excluded, regulations so made shall make provision for the method of calculating the initial cost and the cost of the arrangement at any time.

(4) Subject to subsection (3) above and sections 51 and 52 below, the cost of a credit arrangement at any time after it has come into being shall be determined in accordance with subsections (1) and (2) above (in like manner as the determination of the initial

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cost) but on the basis of an estimate made at the time in question and leaving out of account any consideration which has been given by the authority under the arrangement before that time.

(5) In the application of this section to a credit arrangement which consists, in whole or in part, of a contract, the consideration under which falls within subsection (7) of section 48 above,—

(a) if the credit arrangement exists only on the basis of one of the assumptions in that subsection, the local authority shall make that assumption for the purposes of this section; and

(b) if the credit arrangement would exist on the basis of any two or more of those assumptions, the authority shall for the purposes of this section make whichever of those assumptions seems to them most likely.

Modifications etc. (not altering text)
C64 S. 49(2) excluded by S.I. 1990/432, **reg. 7(1)**

50 Limits on powers to enter into credit arrangements.

(1) A local authority may not enter into a credit arrangement for any purpose unless, if they incurred expenditure for that purpose, it would be expenditure for capital purposes, and any reference in the following provisions of this Part to "capital purposes", in relation to a credit arrangement, shall be construed accordingly.

(2) A local authority may not enter into a credit arrangement unless, at the time the arrangement comes into being, there is available to the authority an amount of credit cover equal to the initial cost of the arrangement.

(3) For the purposes of this section, each of the following amounts constitutes, in relation to a credit arrangement, an amount of credit cover available to a local authority,—

(a) an amount for the time being authorised by a credit approval issued to the authority;

(b) an amount of the usable part of capital receipts which, in accordance witha determination under section 60(2) below referring to the arrangement, is applied by the authority as provision to meet credit liabilities; and

(c) an amount which, in accordance with a determination of the authority referring to the arrangement, is set aside from a revenue account by the authority as provision to meet credit liabilities (being an amount over and above what they are required so to set aside by virtue of any other provision of this Part).

(4) A local authority may not enter into a credit arrangement at any time if to do so would at that time cause the total referred to in section 44(1) above to exceed the aggregate credit limit for the time being applicable to the authority by virtue of section 62 below.

(5) A determination under subsection (3)(c) above may not be made later than 30th September in the financial year following that in which falls the time when there comes into being the credit arrangement for which the credit cover is made available.

(6) Except in so far as they are applied by section 52 below, the preceding provisions of this section do not apply in relation to a transitional credit arrangement.

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Modifications etc. (not altering text)

C65 S. 50(2) applied (with modifications) (W.) (1.9.2002) by S.I. 1995/849, arts. 12, 14-18 (as amended by The Local Authorities (Companies) (Amendment) (Wales) Order 2002 (S.I. 2002/2118), arts. 1(2), **2(2)(a)(3)**)

51 Variation of credit arrangements.

(1) This section (other than subsection (10) below) applies where the terms of a credit arrangement entered into by a local authority are varied (whether by the making of a new contract or otherwise) in such a way that, if the effect of the variation had been part of the arrangement at the time it came into being, the initial cost would have been greater than it was.

(2) If, in the case of a credit arrangement falling within subsection (5) of section 49 above, —

(a) the option in question is exercised in a way different from that which was assumed for the purposes of that section, or

(b) it was assumed for the purposes of that section that the option in question would not be exercised but it is in fact exercised,

the exercise of the option shall be regarded for the purposes of this section as a variation of the terms of the credit arrangement; and if, in such a case, it was assumed for the purposes of section 49 above that the option would be exercised (or would be exercised in a particular way) and it subsequently appears to the local authority that it will not in fact be exercised, the option shall be assumed to have been abandoned and that abandonment shall be regarded for the purposes of this section as a variation of the terms of the credit arrangement.

(3) A local authority may not at any time agree to such a variation as is mentioned in subsection (1) above if to do so would mean that, immediately after the variation, the total referred to in section 44(1) above would exceed the aggregate credit limit for the time being applicable to the authority by virtue of section 62 below.

(4) Where a credit arrangement is varied as mentioned in subsection (1) above,the local authority shall secure that there is available to it an amount of credit cover equal to whichever is the less of—

(a) the difference between the total amount of consideration paid and payable under the arrangement, disregarding the variation, and the total amount of the consideration paid and payable under the arrangement as varied; and

(b) the difference between the adjusted cost of the arrangement and the credit cover already made available in connection with the arrangement in accordance with section 50 above;

and subsections (3) and (5) of section 50 above apply for the purposes of this section as they apply for the purposes of that section, except that,in subsection (5), the reference to the time when the arrangement comes into being shall be construed as a reference to the time when it is varied.

(5) Subject to subsection (7) below, the adjusted cost of the arrangement referred to in subsection (4)(b) above is the aggregate of—

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(a) the consideration which, in the financial year in which the arrangement is varied and in any earlier financial year, has been or falls to be given by the local authority; and

(b) the amount which, at the time of the variation, the authority estimate will be the cost of the arrangement, as varied, in each subsequent financial year determined as follows.

(6) Subject to subsection (7) below, for any subsequent financial year the cost of the arrangement as varied shall be determined by the formula in section 49(2) above but, for this purpose,—

"x" is the amount of the consideration which the authority estimate will be given by them in that financial year under the arrangement as varied;

"r" is the percentage rate of discount for the financial year in which the arrangement is varied, as prescribed by regulations made by the Secretary of State for the purposes of section 49 above;

"n" is the financial year in which the consideration falls to be given, expressed as a year subsequent to the financial year in which the arrangement is varied (so that the first of the subsequent financial years is 1, the next is 2, and so on).

(7) Subsections (5) and (6) above do not apply in relation to a credit arrangement as to which the method of calculating the initial cost and the cost at any time is provided for by regulations under section 49(3) above; and any adjusted cost or cost which would otherwise fall to be determined in accordance with those subsections shall be determined in accordance with provisions made by the regulations.

(8) Where a credit arrangement is varied as mentioned in subsection (1) above, the cost of the arrangement at any time after the variation shall be determined in accordance with subsections (5) and (6) above (in like manner as the determination of the adjusted cost) but on the basis of an estimate made at the time in question and leaving out of account any consideration which has been given by the authority under the arrangement before that time.

(9) If, at any time after the terms of a credit arrangement have been varied as mentioned in subsection (1) above, the terms of the arrangement are again varied, the preceding provisions of this section shall have effect with any necessary modifications and, in particular, as if,—

(a) the reference in subsection (1) above to the time the arrangement came into being were a reference to the time at which the arrangement was varied (or, as the case may be, last varied) as mentioned in that subsection;

(b) the reference in that subsection to the initial cost were a reference to the adjusted cost of the arrangement as so varied (or last varied); and

(c) the reference in paragraph (b) of subsection (4) above to the credit cover already made available in accordance with section 50 above included a reference to any additional credit cover made available under that subsection at the time of an earlier variation.

(10) If at any time the terms of a credit arrangement are varied otherwise than as mentioned in subsection (1) above, then, so far as the variation affects the consideration falling to be paid by the local authority in any year, account shall be taken of the variation in determining the cost of the arrangement at any subsequent time (under subsection (8) above or subsection (3) or subsection (4) of section 49 above) but for other purposes the variation shall be disregarded.

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52 Transitional credit arrangements.

(1) Subject to the following provisions of this section, a local authority shall be taken to have entered into a transitional credit arrangement if, applying the rules in section 48(3) above, the arrangement came into being on or after 7th July 1988 and before 1st April 1990; and, except in so far as any provision of this Part otherwise provides, any reference in this Part to a credit arrangement includes a reference to a transitional credit arrangement.

(2) Notwithstanding that a credit arrangement came into being as mentioned in subsection (1) above it is not a transitional credit arrangement if—

(a) under the arrangement the local authority concerned became the lessees of any property (whether land or goods) and the arrangement was a credit arrangement by reason only of section 48(1)(a) above; or

(b) by virtue of subsection (11) or subsection (12) of section 80 of the [M90]Local Government, Planning and Land Act 1980 (valuation etc.) the amount of prescribed expenditure which the authority is to be taken as having paid on entering into the arrangement was nil; or

(c) by virtue of regulations under paragraph 4 of Schedule 12 to that Act, any expenditure of the authority under the arrangement was not prescribed expenditure; or

(d) the arrangement related only to works which, in whole or in part, were carried out before 1st April 1990 and in relation to which, by reason only of regulations under subsection (7) of section 80A of that Act (payment for works), subsection (1) of that section did not apply or, to the extent that the works were carried out on or after that date, would not have applied if they had been carried out before that date.

(3) For the purpose of the application of sections 49 and 51 above in relation to a transitional credit arrangement—

(a) such an arrangement shall be taken to have come into being (in the form in which it was on 1st April 1990) on that date (and, accordingly, any consideration given under the arrangement before that date shall be disregarded); and

(b) the local authority shall be taken to have made available in connection with the arrangement (and in accordance with section 50 above) an amount of credit cover equal to the cost of the arrangement on 1st April 1990.

Marginal Citations
M90 1980 c. 65.

Credit approvals

53 Basic credit approvals.

[[F109](1) Before the beginning of each financial year, the Secretary of State shall issue to each local authority, in the form of a notice in writing, a credit approval with respect to the authority's credit arrangements and expenditure for capital purposes during that year.

(2) A credit approval issued under this section (in this Part referred to as a "basic credit approval") may be nil but, subject to that, shall be expressed as an amount of money.

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(3) A basic credit approval shall have effect only for the financial year in respect of which it is issued and may be limited by excluding from the purposes for which the approval may be used capital purposes of a description specified in the approval.

(4) Where regulations made by the Secretary of State so require, a basic credit approval shall specify, directly or by reference to tables or other documents specified in the approval, a period (in this Part referred to as the "amortisation period") during which the authority to whom the approval is issued are required to set aside, from a revenue account, as provision to meet credit liabilities, amounts determined in accordance with the regulations.

(5) Under subsection (4) above, if the regulations so provide, a basic credit approval may specify different amortisation periods in relation to the use of the approval in respect of credit arrangements and expenditure for capital purposes of different descriptions.**]**

Modifications etc. (not altering text)

C66 S. 53 applied (with modifications) (*temp.* 4.5.1995 - 31.3.1996) S.I. 1995/1041, **art. 2 Sch. para. 4**
S. 53 excluded (8.5.2000 for certain purposes otherwise 3.7.2000) by 1999 c. 29, **s. 112(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pts. 2, **3**
S. 53 applied (with modifications) (*temp.* 23.11.1995 - 31.3.1996) by S.I. 1995/2803, art. 19(2), **Sch. 7 Pt. II para. 4**

54 Supplementary credit approvals.

(1) Any Minister of the Crown may at any time issue to a local authority, in the form of a notice in writing, a credit approval (in this Part referred to as a "supplementary credit approval").

(2) A supplementary credit approval shall be expressed as an amount of money and shall be limited to credit arrangements and expenditure for capital purposes of a description specified in the approval (but, if the Minister concerned considers appropriate, all capital purposes may be so specified).

(3) A supplementary credit approval shall have effect for such period as is specified in the approval; and where such an approval is issued not more than six months after the end of a financial year, it may specify a period which begins or begins and ends at any time during that financial year.

(4) Subject to subsection (5) below, subsections (4) and (5) of section 53 above apply in relation to a supplementary credit approval as they apply in relation to a basic credit approval.

(5) In the case of a supplementary credit approval issued in respect of expenditure which is treated by the authority concerned as expenditure for capital purposes by virtue only of directions under section 40(6) above, the approval **[**[F129]may specify an amortisation period.**]**.

Textual Amendments

F129 Words in s. 54(5) substituted (6.11.1997) by 1997 c. 63, **s. 2**

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Modifications etc. (not altering text)

C67 S. 54(2)-(5) applied (with modifications) (13.3.1996) by S.I. 1996/633, **art. 6(3)**
S. 54 excluded (8.5.2000 for certain purposes otherwise 3.7.2000) by 1999 c. 29, **s. 112(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2 Sch. Pts. 2**, 3

55 Criteria for issuing credit approvals.

(1) In determining the amount of a basic credit approval or a supplementary credit approval to be issued to a local authority, the Secretary of State or other Minister may have regard, subject to the following provisions of this section, to such factors as appear to him to be appropriate.

(2) Without prejudice to the generality of subsection (1) above, the Secretary of State or other Minister may, in particular, have regard—

(a) to the amount of any grants or contributions which it appears to him that the authority concerned have received and are likely to receive from any person in respect of expenditure incurred by the authority or to be incurred by them before the expiry of the period for which the credit approval is to have effect; and

(b) subject to subsection (3) below, to the amount of capital receipts which it appears to him that the authority have received, might reasonably be expected to have received or to receive or are likely to receive before the expiry of the period for which the credit approval is to have effect.

[[F130](3) In determining the amount of a basic credit approval, the Secretary of State shall not take account of capital receipts to the extent that the authority concerned are required to set aside the receipts as provision for credit liabilities; and in determining the amount of a basic credit approval or a supplementary credit approval, the Secretary of State or other Minister shall not take account of capital receipts**]** to the extent that they are applied or paid as mentioned in subsections (7) to (9) of section 56 below

(4) In determining the amount of the basic credit approval or of a supplementary credit approval to be issued to a particular local authority in any financial year, the Secretary of State or other Minister shall not take account of the extent to which it appears to him that the local authority are or are likely to be in a position to finance expenditure for capital purposes from a revenue account.

(5) In this section "capital receipts" includes sums which constituted capital receipts for the purposes of Part VIII of the [M91]Local Government, Planning and Land Act 1980, whether or not they fall to be treated as capital receipts under section 58 below.

Textual Amendments

F130 Words in s. 55(3) substituted (6.11.1997) by 1997 c. 63, **s. 1**

Modifications etc. (not altering text)

C68 S. 55 applied (with modifications) (13.3.1996) by S.I. 1996/633, **art. 6(3)**
S. 55 excluded (8.5.2000 for certain purposes otherwise 3.7.2000) by 1999 c. 29, **s. 112(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, Sch. Pts. 2, **3**

Marginal Citations

M91 1980 c. 65.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

56 Use of credit approvals by local authorities.

(1) Subject to Part I of Schedule 3 to this Act, where a local authority have received a basic credit approval or a supplementary credit approval, then, if they so determine, the approval may be treated wholly or partly—

(a) as authority not to charge to a revenue account an amount of expenditure which is defrayed during the period for which the approval has effect and which is for capital purposes to which the approval applies; or

(b) as authority, within the period for which the approval has effect, to enter into or agree to a variation of a credit arrangement for purposes to which the approval applies.

(2) Where a local authority have received a basic credit approval or a supplementary credit approval and that approval is not extinguished under section 57 below or Part I of Schedule 3 to this Act, then, if or to the extent that they have not made a determination with respect to it under subsection (1) above, the authority may, if they so determine, transfer the approval, reduced where appropriate under that section or Part, to another local authority, either in whole or in part; and, where such a transfer is made,—

(a) the transfer of the approval (or part) shall not be regarded for the purposes of this Part as its use by the transferor authority; and

(b) this Part (including this section) shall have effect as if the approval (subject to any reduction as mentioned above) had been issued, in whole or as to the part transferred, directly to the transferee authority.

(3) To the extent that and at the time when, in reliance on a credit approval,—

(a) an amount of expenditure which is not charged to a revenue account of the authority concerned is defrayed, or

(b) the authority concerned enter into or agree to a variation of a credit arrangement,

the credit approval shall be regarded as used and, accordingly, shall not be available on any subsequent occasion or for any other purpose.

(4) Subsection (3) above applies whether or not the determination under subsection (1) above precedes the date on which the expenditure is defrayed or, as the case may be, the credit arrangement is entered into or varied.

(5) A determination by a local authority under subsection (1) above that a credit approval is to be treated as mentioned in paragraph (a) or paragraph (b) of that subsection may not be made later than 30th September in the financial year following that in which the authority defray the expenditure or, as the case may be, enter into or vary the credit arrangement in question.

Modifications etc. (not altering text)

C69 S. 56(1)(3)-(5) applied (with modifications) (13.3.1996) by S.I. 1996/633, **art. 6(3)**
S. 56 applied (3.7.2000) by 1999 c. 29, **s. 118(3)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2, **Sch. Pt. III**

57 Effect of certain capital grants on credit approvals.

(1) In this section "specified capital grants" means grants, contributions and subsidies—

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(a) which are paid to local authorities in aid of their expenditure for capital purposes;

(b) which are neither commuted payments falling within subsection (2) of section 63 below nor single or other payments falling within subsection (3)of that section; and

(c) which are, or to the extent that they are, specified for the purposes of this section by regulations made by the Secretary of State.

(2) If at any time a local authority receive a specified capital grant, such, if any, of the authority's credit approvals as are relevant to that grant shall, in accordance with the following provisions of this section, be reduced or, as the case may be, extinguished by deducting there from an amount equal to the grant.

(3) For the purposes of this section, a credit approval is relevant to a specified capital grant if—

(a) the approval has effect at the time the grant is received or at any time thereafter; and

(b) the purposes for which the approval may be used are or include the purposes towards expenditure on which the grant is made.

(4) Subject to subsections (5) and (6) below, where, by virtue of subsection (2) above, a deduction is required in respect of a specified capital grant,—

(a) the deduction shall be applied to the credit approvals which are relevant to the grant in the order in which those approvals were received;

(b) subject to paragraph (d) below, the reduction or extinguishment of any such approval shall be regarded as taking place when the grant is received;

(c) if the amount of the deduction exceeds the total of the credit approvals which are relevant to the grant and were received before the grant, the excess shall be applied in reduction (or extinguishment) of credit approvals which are so relevant and are received later; and

(d) any such reduction or extinguishment of a later credit approval as is referred to in paragraph (c) above shall be regarded as taking place when the approval is received.

(5) Notwithstanding anything in subsection (4) above, any reduction or extinguishment of a credit approval which is required to be made under Part I of Schedule 3 to this Act shall be applied before any reduction or extinguishment under this section.

(6) In any case where—

(a) before the time when a specified capital grant is received by a local authority, the authority have made a determination under subsection (1) of section 56 above with respect to a credit approval which is relevant to that grant, and

(b) by virtue of subsection (3) of that section, that credit approval is to any extent to be regarded as having been used before that time,

the credit approval shall not, to that extent, be taken into account under subsections (2) and (4) above; but, subject to that, the making of a determination under section 56(1) above with respect to a credit approval shall not affect the operation of those subsections in relation to it.

Modifications etc. (not altering text)

C70 S. 57 applied (with modifications) (13.3.1996) by S.I. 1996/633, **art. 6(3)**

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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C71 S. 57(4)(c) applied (with modifications) (1.4.1995) by S.I. 1995/798, **reg. 7(2)**
S. 57(4)(c) applied (with modifications) (1.4.1996) by S.I. 1996/633, **art. 5(2)**

Capital receipts

58 Capital receipts.

(1) For the purposes of this Part, the capital receipts of a local authority are, subject to the following provisions of this section, those sums received by the authority in respect of—

(a) the disposal of any interest in an asset if, at the time of disposal, expenditure on the acquisition of the asset would be expenditure for capital purposes;

(b) the disposal of any investment other than an investment which, at the time of disposal, is an approved investment;

(c) the repayment of, or a payment in respect of, any grants or other financial assistance of such a description that, if the expenditure on the grant or assistance had been incurred at the time of the repayment or payment, it would have constituted expenditure for capital purposes; or

(d) the repayment of the principal of an advance (not being an approved investment) made by the authority for such a purpose that, if the advance had been made at the time of the repayment, expenditure incurred on it would have constituted expenditure for capital purposes;

and those sums become capital receipts at the time they are in fact received.

(2) The following sums are not capital receipts for the purposes of this Part, namely, sums received by an authority in respect of—

(a) the disposal of an interest in an asset which, at the time of the disposal, is an asset of a superannuation fund which the authority are required to keep by virtue of the [M92]Superannuation Act 1972;or

(b) the disposal of an investment held for the purposes of such a superannuation fund; or

(c) any repayment or payment such as is mentioned in paragraph (c) or paragraph (d) of subsection (1) above which is made to such a superannuation fund.

(3) Subsection (1) above applies to sums received on or after 1st April l990 but regardless of when the disposal or advance was made or the grant or other financial assistance was given and, in particular, whether or not it was made or given on or after that date but, in the case of a disposal made before that date, the reference in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above to the time of the disposal shall be construed as a reference to 1st April 1990.

(4) Subject to subsection (6) below, to the extent that any sums which were received by a local authority before lst April 1990 and either—

(a) constituted capital receipts for the purposes of Part VIII of the [M93]Local Government, Planning and Land Act 1980, or

(b) did not constitute such receipts by virtue of regulations under section 75(5) of that Act but are specified for the purposes of this subsection by regulations made by the Secretary of State,

are represented in the authority's accounts for the financial year ending immediately before that date either by amounts shown as capital receipts which are unapplied as

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at the end of that year or by amounts included in the balance as at the end of that year of any fund established by the authority under paragraph 16 of Schedule 13 to the [M94]Local Government Act 1972, those sums shall be treated for the purposes of this Part as capital receipts received by the authority on that date; and any reference in this Part to "1980 Act receipts" is a reference to sums which are capital receipts by virtue of this subsection.

(5) So far as may be necessary for the purposes of this Part, a local authority shall identify which (if any) sums falling within paragraphs (a) and (b) of subsection (4) above are represented by amounts included as mentioned in that subsection in the balance of a fund established as so mentioned.

(6) Subsection (4) above does not apply to a sum in respect of which an amount shown as an unapplied capital receipt or included in a balance as mentioned in that subsection is, on 1st April 1990, held in an investment which is not on that date an approved investment; and, so far as may be necessary for the purposes of this Part, where on that date a local authority hold investments which are not then approved investments, the authority shall identify which (if any) of the amounts so shown or included are to be treated as held in such investments.

(7) Where an asset or investment falling within paragraph (a) or paragraph (b)of subsection (1) above is disposed of and the whole or part of the purchase price is not received by the authority at the time of the disposal, then, subject to subsection (9) below, any interest payable to the authority in respect of the whole or any part of the price shall not be regarded as a capital receipt.

(8) Subject to subsection (9) below, in the case of a disposal of an asset which consists of the grant, assignment or surrender of a leasehold interest in any land or the lease of any other asset, only the following are capital receipts, —

(a) any premium paid on the grant or assignment;

(b) any consideration received in respect of the surrender;

(c) any sum paid by way of rent more than three months before the beginning of the rental period to which it relates;

(d) any sum paid by way of rent in respect of a rental period which exceed sone year; and

(e) so much of any other sum paid by way of rent as, in accordance with directions given by the Secretary of State, falls to be treated as a capital receipt.

(9) If the Secretary of State by regulations so provides,—

(a) the whole or such part as may be determined under the regulations of a sum received by a local authority and which, apart from this subsection, would not be a capital receipt shall be such a receipt; and

(b) the whole or such part as may be so determined of a sum which, apart from this subsection, would be a capital receipt shall not be such a receipt.

(10) This section and sections 59 to 61 below have effect subject to Part II of Schedule 3 to this Act in relation to certain disposals, payments and repayments occurring before 1st April 1990.

Marginal Citations

M92 1972 c. 11.

M93 1980c. 65.

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M94 1972 c. 70.

59 The reserved part of capital receipts.

(1) At the time when a local authority receive a capital receipt, a part of that receipt (in this Part referred to as "the reserved part") shall be set aside by the authority as provision to meet credit liabilities.

(2) Subject to the following provisions of this section, the reserved part of a capital receipt shall be—

(a) in the case of a receipt in respect of the disposal of dwelling-housesheld for the purposes of Part II of the [M95]Housing Act 1985 (provision of housing), 75 per cent; and

(b) in the case of any other receipt, 50 per cent.

(3) The Secretary of State may by regulations alter the percentage which (by virtue of subsection (2) above or the previous exercise of this power) is for the time being the reserved part of any capital receipt or provide that the amount which is the reserved part of any capital receipt shall be determined in accordance with the regulations; and any such regulations may make different provision in relation to—

(a) different descriptions of capital receipts; and

(b) different descriptions of local authority;

and where the regulations specify a percentage, it may be any percentage from nil to 100.

(4) If the Secretary of State by regulations so provides, capital receipts of a description specified in the regulations shall be treated for the purposes only of this section as reduced by an amount determined in accordance with the regulations.

(5) In the exercise of the power conferred by subsection (3) or subsection (4) above, capital receipts and local authorities may be differentiated in any manner which appears to the Secretary of State to be appropriate and, in particular,—

(a) capital receipts may be differentiated by reference to the source from which they are derived including, in the case of receipts derived from disposals, different descriptions of disposals; and

(b) local authorities may be differentiated by reference to their type, their credit ceilings and the nature of their statutory powers and duties.

(6) Without prejudice to subsection (3) above, in any case where—

(a) the consent of the Secretary of State is required for a disposal of a dwelling-house or any other property, and

(b) the Secretary of State gives a direction under this subsection with respect to a capital receipt in respect of that disposal,

subsection (2) above shall have effect in relation to that capital receipt as if it provided that the reserved part of the receipt were a percentage thereof specified in the direction or, according as the direction provides, an amount determined in accordance with the direction; but any direction under this subsection relating to a 1980 Act receipt shall be made before 1st April 1990.

(7) Subsection (1) above does not apply to a capital receipt received by an authority as trustee of a trust fund which is held for charitable purposes.

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(8) Where a local authority receive a capital receipt in respect of an asset, investment, grant or other financial assistance which was originally acquired or made by the authority wholly or partly out of moneys provided by Parliament on terms which require, or enable a Minister of the Crown to require, the payment of any sum to such a Minister on or by reference to the disposal ofthe asset or investment or the repayment of the grant or assistance, the amount of the capital receipt shall be treated for the purposes of the preceding provisions of this section as reduced by the sum which appears tothe authority to be so payable, including, in the case of a 1980 Act receipt,any sum which was payable, but was not in fact paid, before 1st April 1990.

(9) Where a local authority receive a capital receipt, not being a 1980 Act receipt, in respect of—

(a) a disposal of land held for the purposes of Part II of the [M96]Housing Act 1985, or

(b) any other disposal of land made by virtue of Part V (the right to buy) of that Act,

the amount of the capital receipt shall be treated for the purposes of the preceding provisions of this section as reduced by so much of the receipt as is applied by the authority in defraying the administrative costs of and incidental to any such disposal.

Modifications etc. (not altering text)

C72 S. 59 modified by S.I. 1990/432, **regs. 17**, 18,19(1)–(4) and reg. 19A (as added by S.I. 1991/500, **reg. 2(f)**)

C73 S. 59 restricted (1.4.1996) by S.I. 1996/633, **art. 7(1)(b)**

C74 S. 59(2) restricted (1.4.1996) by S.I. 1996/633, **art. 7(1)(a)**

Marginal Citations

M95 1985 c. 68.

M96 1985 c.68.

60 The usable balance of capital receipts.

(1) This section applies to the balance of any capital receipts received by a local authority after deducting—

(a) the reserved part of each such receipt; and

(b) any sum which, by virtue of subsection (8) or subsection (9) of section 59 above, falls to be deducted in determining the amount of any receipt for the purposes of the preceding provisions of that section;

but nothing in this section applies to a capital receipt which falls within section 59(7) above.

(2) The balance referred to in subsection (1) above (in this Part referred to as "the usable part" of the authority's capital receipts) shall be applied by the local authority, according as they determine, in one of the following ways, or partly in one way and partly in the other,—

(a) to meet expenditure incurred for capital purposes; or

(b) as provision to meet credit liabilities;

and, subject to subsection (3) below, may be so applied in the financial year in which the receipts are received or in any later financial year.

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(3) A determination by a local authority under subsection (2) above as to the manner in which the usable part of their capital receipts are to be applied may not be made later than 30th September in the financial year following that in which, in accordance with the determination, the receipts are to be applied.

(4) For the purposes of this Part, to the extent that the usable part of an authority's capital receipts are applied as mentioned in subsection (2)(a) above, it shall be taken to be so applied at the time when the expenditure in question is defrayed.

(5) For the purposes of this Part, to the extent that the usable part of an authority's capital receipts are applied as mentioned in subsection (2)(b) above, it shall be taken to be so applied—

(a) if it is used as an amount of credit cover as mentioned in section 50(3)(b) above, when the credit arrangement in question is entered into or varied; and

(b) subject to subsection (6) below, in any other case, on the last day of the financial year in which (pursuant to the local authority's determination) it is so applied.

(6) In the case of a determination under subsection (2) above which—

(a) relates to the application of the usable part of a 1980 Act receipt in the financial year beginning on 1st April 1990, and

(b) is made not later than 30th September 1990,

subsection (5)(b) above shall have effect with the substitution of areference to 1st April 1990 for the reference to the last day of the financial year in which the usable part is so applied.

61 Capital receipts not wholly in money paid to the authority.

(1) This section applies where—

(a) the whole or part of the consideration received by a local authority on or after 1st April 1990 for a disposal falling within section 58(1) above either is not in money or consists of money which, at the request or with the agreement of the local authority concerned, is paid otherwise than to the authority; or

(b) the right of a local authority to receive such a repayment or payment as is referred to in section 58(1) above is assigned or waived for a consideration which is received on or after 1st April 1990 and which, in whole or in part, is not in money or which, at the request or with the agreement of the local authority, is paid otherwise than to the authority; or

(c) on a disposal falling within section 58(8) above, any consideration isreceived on or after 1st April 1990 and, if it had been in money paid to the authority, it would have been a capital receipt.

(2) Where this section applies in relation to any consideration, there shall be determined the amount which would have been the capital receipt if the consideration had been wholly in money paid to the local authority; and, subject to subsection (3) below, the amount so determined is in this section referred to as "the notional capital receipt".

(3) From the amount which, apart from this subsection, would be the notional capital receipt in relation to a disposal, repayment or payment there shall be deducted any amount of money that was paid or is payable to the local authority in respect of that disposal, repayment or payment and in respect of which section 59 above actually applies or will actually apply when the payment is received.

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(4) Where consideration to which this section applies is received in respect of a disposal, repayment or payment, the local authority shall set aside, at the time of the disposal or the assignment or waiver of the repayment or payment, and as provision to meet credit liabilities, an amount which, except in so far as regulations made or directions given by the Secretary of State otherwise provide, shall be equal to that which, under section 59 above, would be the reserved part of the notional capital receipt.

(5) The amount falling to be set aside by a local authority under subsection (4) above shall be so set aside—

(a) from the usable part of the authority's capital receipts; or

(b) from a revenue account of the authority.

(6) If the Secretary of State by regulations so provides,—

(a) consideration which is not in money, which is received by a local authority and which is of a description specified in the regulations, or

(b) consideration which is in money, which is paid otherwise than to the authority and which is of a description specified in the regulations,

shall be treated for the purposes of subsections (2), (4) and (5) above as consideration to which this section applies and, in relation to any such consideration, subsection (4) above shall apply with such modifications as are specified in the regulations.

Modifications etc. (not altering text)

C75 S. 61 excluded by S.I. 1990/720, **art. 6(2)(b)**

C76 S. 61(4) modified by S.I. 1990/432, **reg. 20(7)**

Aggregate credit limit

62 Aggregate credit limit.

(1) For each local authority there shall be an aggregate credit limit which,subject to subsection (2) below, at any time shall be the total at that time of—

(a) the authority's temporary revenue borrowing limit;

(b) the authority's temporary capital borrowing limit;

(c) the authority's credit ceiling, as determined under Part III of Schedule 3 to this Act; and

(d) the excess of the authority's approved investments and cash over their usable capital receipts;

but the reference in paragraph (d) above to approved investments and cash does not include investments or cash held for the purposes of such a superannuation fund or trust fund as is referred to in paragraph (h) or paragraph (i) of subsection (2) of section 42 above.

(2) On an application made by a local authority, the Secretary of State may direct that, for any period specified in the direction, the amount which, apart from the direction, would be the authority's aggregate credit limit at any time during that period shall be increased by an amount specified in the direction with respect to that period; and any increase specified in a direction under this subsection may be expressed to have effect subject to compliance with such terms and conditions as may be so specified.

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(3) Subject to subsection (4) below, an authority's temporary revenue borrowing limit at any time is whichever is the less of—

(a) the total sums which at that time remain to be received by the authority and which, as income, fall or will fall to be credited to a revenue account of the authority for the current financial year; and

(b) the aggregate of—

(i) the total sums which, up to and including that time (whether in the current or a previous financial year), the authority have disbursed in respect of expenditure which falls to be charged to a revenue account of the authority for the current financial year; and

(ii) any relevant arrears in respect of which provision has been or is to be charged to such a revenue account or which have been or are to be written off and charged to such a revenue account;

and for the purposes of paragraph (b)(ii) above "relevant arrears" are amounts in respect of income which remain to be received by the authority and which, as income, fall to be credited to a revenue account of the authority for the financial year beginning two years before the beginning of the current financial year.

(4) At any time in a financial year the amount which, apart from this subsection, would be an authority's temporary revenue borrowing limit shall be increased by the addition of an amount in respect of the immediately preceding financial year, being whichever is the less of—

(a) the excess (if any) of the total sums which, up to and including that time, the authority have disbursed in respect of expenditure falling to be charged to a revenue account of the authority for that preceding year over the total sums which, up to and including that time, the authority have received in respect of income falling to be credited to such a revenue account; and

(b) the total sums which at that time remain to be received by the authority and which, as income, fall or will fall to be credited to a revenue account of the authority for that preceding year.

(5) An authority's temporary capital borrowing limit at any time is so much of the expenditure defrayed by the authority for capital purposes in the eighteen months ending at that time as is due to be, but at that time has not yet been, re-imbursed by any other person, excluding expenditure which is to be re-imbursed or met out of grants from a Community institution **[**[F131]other than contributions from any of the Structural Funds**]**; and for this purpose it is immaterial whether the re-imbursement is due as a result of an obligation arising by statute, contract or otherwise or is to take the form of a grant or other obligation voluntarily undertaken.

(6) If at any time an authority's usable capital receipts exceed their approved investments and cash referred to in paragraph (d) of subsection (1) above, the amount taken into account under that paragraph shall be a negative amount.

(7) Where an amount taken into account under paragraph (c) or paragraph (d) of subsection (1) above is a negative amount, it shall be a deduction in determining the total referred to in that subsection.

(8) Any reference in this section to an authority's usable capital receipts at any time is a reference to the usable part of the authority's capital receipts so far as they have not been applied before that time.

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Textual Amendments

F131 Words in s. 62(5) inserted (1.4.2000) by S.I. 2000/589, **art. 2(1)(3)**

Modifications etc. (not altering text)

C77 S. 62(1)(d) modified by S.I. 1990/719, **art. 4(5)(b)**, (8) and by S.I. 1990/720, **art. 4(5)(9)**

Amounts set aside to meet credit liabilities

63 Duty to set certain amounts aside as provision to meet credit liabilities.

(1) Without prejudice to any other provision of this Part under which a local authority are required or authorised to set aside any amount as provision to meet credit liabilities, in each financial year a local authority shall, by virtue of this section, set aside, from such revenue account or accounts as the authority think fit, as provision to meet credit liabilities, an amount determined by the authority, being not less than the minimum revenue provision for that year referred to in Part IV of Schedule 3 to this Act.

(2) Where, by virtue of section 157 below, the Secretary of State makes to a local authority a commuted payment, within the meaning of that section, the authority shall, at the time the payment is received, set aside an amount equal to that payment as provision to meet credit liabilities.

(3) If, otherwise than by virtue of section 157 below, the Secretary of State or any other Minister of the Crown commutes into a single payment (or into a smaller number of payments than would otherwise be payable) sums which would otherwise have been paid to a local authority annually or by reference to any other period of time, the authority shall, at the time that single payment or, as the case may be, each of that smaller number of payments is received, set aside an amount equal to the payment as provision to meet credit liabilities.

(4) Where a local authority receive any sum **[**[F132]towards the authority's expenditure on capital purposes by way of grant from a Community institution other than a contribution from any of the Structural Funds,**]** they shall at the time the sum is received, set aside an amount equal to that sumas provision to meet credit liabilities.

(5) A determination under subsection (1) above shall be made not later than 30th September in the financial year following that to which the determination relates.

Textual Amendments

F132 Words in s. 63(4) substituted (1.4.2000) by S.I. 2000/589, **art. 2(1)(4)**

64 Use of amounts set aside to meet credit liabilities.

(1) Amounts for the time being set aside by a local authority (whether voluntarily or pursuant to a requirement under this Part) as provision to meet credit liabilities may, subject to subsection (2) below, be applied only forone or more of the following purposes—

(a) to meet any liability of the authority in respect of money borrowed by the authority, other than a liability in respect of interest;

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(b) to meet any liability of the authority in respect of credit arrangements,other than those excluded by regulations under paragraph 11 of Schedule 3 to this Act; and

(c) where a credit approval has been used as authority not to charge particular expenditure to a revenue account, to meet that expenditure.

(2) Subject to the following provisions of this section if, on the date which is the relevant date for any financial year, a local authority's credit ceiling, as determined under Part III of Schedule 3 to this Act, is a negative amount, any such amount as is referred to in subsection (1) above may in that financial year—

(a) be applied for purposes specified by regulations made by the Secretary of State; or

(b) be transferred to a body so specified.

(3) The aggregate of the amounts which may be applied by a local authority inaccordance with subsection (2) above in any financial year shall not exceed the amount by which the authority's credit ceiling on the relevant date is less than nil.

(4) References in subsections (2) and (3) above to the relevant date shall be construed as follows—

(a) for the financial year beginning on 1st April 1990, the relevant date is that date; and

(b) for any subsequent financial year, the relevant date is the last day of the preceding financial year.

(5) Regulations under subsection (2) above may specify conditions with which a local authority must comply in applying or transferring any amount as mentioned in that subsection and with respect to any amount so applied or transferred; and an amount shall not be taken to be applied or transferred under that subsection unless any such conditions are complied with.

Modifications etc. (not altering text)
C78 S. 64 excluded (20.7.1993) by 1993 c. 28, **s. 136(8)**

Supplementary

65 Information.

(1) The Secretary of State may serve on a local authority a notice requiring the authority to supply to him such information as is specified in the notice and is required by him—

(a) for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Part; or

(b) for the purpose of ascertaining whether an authority have acted, or are likely to act, in accordance with this Part; or

(c) for the purpose of assisting the formulation of government economic policies;

but no information shall be required for the purpose specified in paragraph (c) above unless it relates to, or to plans or proposals about, the finances and expenditure of the authority or of any company in which the authority have an interest.

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(2) If the information specified in a notice under this section is in the possession or under the control of the authority on whom the notice is served, the authority shall supply the information required in such form and manner, and at such time, as is specified in the notice and, if the notice so requires, the information shall be certified (according as is specified in the notice) in one or both of the following ways,—

(a) by the chief finance officer of the authority, within the meaning of section 5 above, or by such other person as may be specified in the notice; and

(b) under arrangements made by the Audit Commission for Local Authorities in England and Wales.

(3) If a local authority fail to comply with subsection (2) above, the Secretary of State may decide—

(a) whether to exercise his powers, and how to perform his functions, under this Part, or

(b) whether the authority have acted, or are likely to act, in accordance with this Part,

on the basis of such assumptions and estimates as he thinks fit.

(4) In deciding—

(a) whether to exercise his powers, and how to perform his functions, under this Part, or

(b) whether an authority have acted, or are likely to act, in accordance with this Part,

the Secretary of State may also take into account any other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other enactment.

66 Interpretation of Part IV.

(1) In this Part—

(a) "approved investments" means investments approved for the purposes of this Part by regulations made by the Secretary of State;

(b) "financial year" means the period of twelve months beginning on 1st April;

(c) "Minister of the Crown" has the same meaning as in theMinisters of the [M97]Crown Act 1975; [F133]. . .

(d) "1980 Act receipt" has the meaning given by section 58(4) above. **[**[F134]and

(e) "Structural Funds" has the same meaning as in Article 2(1) of Council Regulation (EC) No. 1260/1999.**]**

(2) For the purposes of this Part, a local authority—

(a) incur a liability in respect of a payment at the time when they become unconditionally liable to make the payment; and

(b) discharge a liability in respect of a payment at the time when they make the actual payment, whether or not they have at that time become unconditionally liable to do so.

(3) In relation to a credit arrangement,—

(a) any reference in this Part to consideration given or to be given by the local authority under the arrangement does not include a reference to any

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consideration which is given before the time the arrangement comes into being (as defined in section 48(3) above); and

(b) any reference in this Part to a liability of the local authority under thearrangement does not include a reference to a liability which is met by the making of a payment before that time.

(4) In relation to a local authority, references in this Part to proper practices are references to those accounting practices—

(a) which the authority are required to follow by virtue of any enactment; or

(b) which, whether by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of the accounts of local authorities, either generally or of the description concerned;

but, in the event of any conflict in any respect between the practices falling within paragraph (a) above and those falling within paragraph (b)above, only those falling within paragraph (a) above are to be regarded as proper practices.

(5) Subsection (4) above has effect not only for the purposes of this Act but also for the purposes of—

(a) any enactment passed after or in the same Session as this Act; and

(b) F135. . .the M98Local Government Finance Act 1988.

(6) If, under or by virtue of any enactment, all or any of the liabilities of an authority (in this subsection referred to as "the original authority") in respect of a loan to or borrowing (or money borrowed) by the authority have become liabilities of another local authority (in this subsection referred to as "the current authority") then, in so far as regulations made by the Secretary of State so provide,—

(a) in relation to the current authority, any reference in this Part to a loan to or borrowing (or money borrowed) by that authority includes a reference to the loan to or borrowing (or money borrowed) by the original authority; and

(b) if the original authority is a local authority for the purposes of this Part, any reference to a loan to or borrowing (or money borrowed) by that authority excludes a reference to the loan, borrowing (or money borrowed) in respect of which the liabilities have become those of the current authority.

(7) For the avoidance of doubt, except as provided by section 44(5) above, any reference in this Part to borrowing by a local authority does not include a reference to the temporary use by an authority of money forming part of a particular fund of the authority for a purpose other than that of the fund.

Textual Amendments

F133 Word in s. 66(1)(c) omitted (1.4.2000) by virtue of S.I. 2000/589, **art. 2(1)(5)**

F134 S. 66(1): words at the end of para. (d) inserted (1.4.2000) by S.I. 2000/589, **art. 2(1)(5)**

F135 Words in s. 66(5)(b) repealed (11.9.1998) by 1998 c. 18, ss. 54(1)(3), 55(2), Sch. 3 para. 18(2), **Sch. 5**

Modifications etc. (not altering text)

C79 S. 66(1) modified (24.6.2003) by The Uncertificated Securities (Amendment) (Eligible Debt Securities) Regulations 2003 (S.I. 2003/1633), reg. 1(1), **Sch. 1 para. 23**

C80 S. 66(6) extended (1.4.1995) by S.I. 1995/798, **reg. 9**

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Marginal Citations

M97 1975 c. 26.

M98 1988 c. 41.

PART V

COMPANIES IN WHICH LOCAL AUTHORITIES HAVE INTERESTS

Modifications etc. (not altering text)

C81 Pt. 5 (ss. 67-73): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(iii); S.I. 1997/1930, **art. 2(1)(2)(m)**

C82 Pt. 5 modified (18.11.2003) by Local Government Act 2003 (c. 26), **s. 95(5)**(6), 128(2)(d)

67 Application of, and orders under, Part V.

(1) Any reference in this Part to a company is a reference to a body corporate of one of the following descriptions—

(a) a company limited by shares;

(b) a company limited by guarantee and not having a share capital;

(c) a company limited by guarantee and having a share capital;

(d) an unlimited company; and

(e) a society registered or deemed to be registered under the [M99]Industrial and Provident Societies Act 1965 or under the [M100]Industrial and Provident Societies Act (Northern Ireland) 1969.

(2) Expressions used in paragraphs (a) to (d) of subsection (1) above have the same meaning as in Chapter I of Part I of the [M101]Companies Act 1985 or the corresponding enactment for the time being in force in Northern Ireland.

(3) Any reference in this Part to a local authority is a reference to a body of one of the following descriptions—

(a) a county council;

[[F136](aa) a county borough council;**]**

(b) a district council;

[[F137](bb) the Greater London Authority;

[F137](bc) a functional body, within the meaning of the Greater London Authority Act 1999;**]**

(c) a London borough council;

(d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;

(e) the Council of the Isles of Scilly;

(f) a parish council;

(g) a community council;

[[F138](ga) the Greater London Magistrates' Courts Authority;.**]**

(h) a fire authority constituted by a combination scheme under the [M102]Fire Services Act 1947;

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[F139(i) a police authority established under **[**F140section 3 of the Police Act 1996**]**. . . ;**]**

(j) an authority established under section 10 of the M103Local Government Act 1985 (waste disposal authorities);

(k) a joint authority established by Part IV of that Act (F141... fire services, civil defence and transport);

(l) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);

(m) the Broads Authority;

[F142(ma) a National Park authority;**]**

(n) any joint board the constituent members of which consist of any of the bodies specified above;

F143(o) . . . . . .

[F144(oo) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the M104Town and Country Planning Act 1990; and**]**

(p) a Passenger Transport Executive.

(4) Any power to make an order under this Part shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and under any such power different provision maybe made for different cases and different descriptions of cases (including different provision for different areas).

[F145(5) The power under subsection (4) above to make differential provision includes, in particular, power to make different provision for different local authorities or descriptions of local authority.**]**

Textual Amendments

F136 S. 67(3)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. 3(6)**

F137 S. 67(3)(bb)(bc) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, **s. 393(1)(2)** (with Sch. 12 para. 9(1)); S.I. 2000/3434, **arts. 3**, 4

F138 S. 67(3)(ga) inserted (1.4.2001) by 1999 c. 22, s. 83(3), Sch. 12 paras. 4, **6** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(i)** (with savings in Sch. 2 para. 2)

F139 S. 67(3)(i) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 39**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.**

F140 Words in s. 67(3)(i) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**

F141 Word in s. 67(3)(k) repealed (E.W.) (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.**

F142 S. 67(3)(ma) inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 10** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

F143 S. 67(3)(o) 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.**

F144 S. 67(3)(oo) inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2(1)**

F145 S. 67(5) inserted (18.11.2003 for E. and 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 2**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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Commencement Information

I2 S. 67 wholly in force at 7.10.1993; s. 67 not in force at Royal Assent see s. 195(2); s. 67 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, **art. 4**; s. 67 in force so far as not already in force at 7.10.1993 by S.I. 1993/2140, **art. 3**

Marginal Citations

M99 1965 c.12.
M100 1969 c.24. (N.I.)
M101 1985 c. 6.
M102 1947c. 41.
M103 1985 c. 51.
M104 1990 c. 8.

68 Companies controlled by local authorities and arm's length companies.

(1) For the purposes of this Part, unless the Secretary of State otherwise directs, a company is for the time being under the control of a local authority if—

(a) by virtue of section 736 of the [M105]Companies Act 1985 the company is at that time a subsidiary of the local authority for the purposes of that Act; or

(b) paragraph (a) above does not apply but the local authority have at that time power to control a majority of the votes at a general meeting of the company as mentioned in subsection (3) below; or

(c) paragraph (a) above does not apply but the local authority have at that time power to appoint or remove a majority of the board of directors of the company; or

(d) the company is under the control of another company which, by virtue of this subsection, is itself under the control of the local authority;

and, for the purposes of paragraph (d) above, any question whether one company is under the control of another shall be determined by applying the preceding provisions of this subsection, substituting a reference to the other company for any reference to the local authority.

(2) A direction under subsection (1) above—

(a) may be limited in time and may be made conditional upon such matters as appear to the Secretary of State to be appropriate; and

(b) may be made with respect to a particular company or a description of companies specified in the direction.

(3) The reference in subsection (1)(b) above to a power to control a majority of votes at a general meeting of the company is a reference to a power which is exercisable—

(a) in the case of a company limited by shares, through the holding of equity share capital in any one or more of the following ways, namely, by the local authority, by nominees of the local authority and by persons whose shareholding is under the control of the local authority; or

(b) in the case of any company, through the holding of votes at a general meeting of the company in any one or more of the following ways, namely, by the local authority, by a group of members of the company the composition of which is controlled by the local authority and by persons who have contractually bound themselves to vote in accordance with the instructions ofthe local authority; or

(c) partly in one of those ways and partly in the other.

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(4) Subsection (3) of section 736A of the [M106]Companies Act 1985 (right to appoint or remove a majority of a company's board of directors) and the following provisions of that section as they have effect in relation to subsection (3) apply for the purposes of subsection (1)(c) above with the substitution for the word "right", wherever it occurs, of the word "power".

(5) For the purposes of subsection (3)(a) above, a person's shareholding is under the control of a local authority if—

(a) his right to hold the shares arose because of some action which the authority took, or refrained from taking, in order to enable him to have the right; and

(b) the local authority, alone or jointly with one or more other persons can require him to transfer his shareholding (or any part of it) to another person.

(6) Notwithstanding that, by virtue of the preceding provisions of this section, a company is for the time being under the control of a local authority, the company is for the purposes of this Part an "arm's length company", in relation to any financial year if, at a time before the beginning of that year, the authority resolved that the company should be an arm's length company and, at all times from the passing of that resolution up to the end of the financial year in question, the following conditions have applied while the company has been under the control of the local authority,—

(a) that each of the directors of the company was appointed for a fixed term of at least two years;

(b) that, subject to subsection (7) below, no director of the company has been removed by resolution under section 303 of the Companies Act 1985;

(c) that not more than one-fifth of the directors of the company have been members or officers of the authority;

(d) that the company has not occupied (as tenant or otherwise) any land in which the authority have an interest otherwise than for the best consideration reasonably obtainable;

(e) that the company has entered into an agreement with the authority that the company will use its best endeavours to produce a specified positive return on its assets;

(f) that, except for the purpose of enabling the company to acquire fixed assets or to provide it with working capital, the authority have not lent money to the company or guaranteed any sum borrowed by it or subscribed for any securities in the company;

(g) that the authority have not made any grant to the company except in pursuance of an agreement or undertaking entered into before the financial year (within the meaning of the Companies Act 1985) of the company in which the grant was made; and

(h) that the authority have not made any grant to the company the amount of which is in any way related to the financial results of the company in any period.

(7) If the Secretary of State so directs, the removal of a director shall be disregarded for the purposes of subsection (6)(b) above; but the Secretary of State shall not give such a direction if it appears to him that the director was removed with a view to influencing the management of the company for other than commercial reasons.

Modifications etc. (not altering text)

C83 S. 68 applied (with modifications) (11.3.1996) by S.I. 1996/330, **reg. 9(1)**

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C84 S. 68(1) applied (29.4.1996) by 1992 c. 19, **s. 1A(5)** (as inserted (29.4.1996) by 1996 c. 10, **s. 5(2)**) (which amendment fell (11.9.1998) by reason of the repeal of 1996 c. 10, **s. 5(2)** by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**)
S. 68(1) applied (11.9.1998) by 1998 c. 18, **ss. 45(5)**, 55(2)
C85 S. 68(1) applied (with modifications) (14.3.1995) by S.I. 1995/402, **reg. 3(2)**

Commencement Information

I3 S. 68 wholly in force at 7.10.1993; s. 68 not in force at Royal Assent see s. 195(2); s. 68 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, **art. 4**; s. 68 in force so far as not already in force at 7.10.1993 by S.I. 1993/2410, **art. 3**

Marginal Citations

M105 1985 c. 6.
M106 1985 c. 6.

69 Companies subject to local authority influence.

(1) For the purposes of this Part, unless the Secretary of State otherwise directs, a company which is not at the time under the control of a local authority is for the time being subject to the influence of a local authority if it is not a banking or insurance company or a member of a banking or insurance group and at that time there is such a business relationship between the company and the authority as is referred to in subsection (3) below and either—

(a) at least 20 per cent. of the total voting rights of all the members having the right to vote at a general meeting of the company are held by persons who are associated with the authority as mentioned in subsection (5) below; or

(b) at least 20 per cent. of the directors of the company are persons who are so associated; or

(c) at least 20 per cent. of the total voting rights at a meeting of the directors of the company are held by persons who are so associated.

(2) A direction under subsection (1) above—

(a) may be limited in time and may be made conditional upon such matters as appear to the Secretary of State to be appropriate; and

(b) may be made with respect to a particular company or a description of companies specified in the direction.

(3) For the purposes of this section there is a business relationship between a company and a local authority at any time if the condition in any one or more of the following paragraphs is fulfilled—

(a) within a period of twelve months which includes that time the aggregate of the payments to the company by the authority or by another company which is under the control of the authority represents more than one-half of thecompany's turnover, as shown in its profit and loss account for the most recent financial year for which the company's auditors have made a report on the accounts or, if there is no such account, as estimated by the authority for the period of twelve months preceding the date of the estimate or for such part of that period as follows the formation of the company;

(b) more than one-half of the company's turnover referred to in paragraph (a) above is derived from the exploitation of assets of any description in which the local authority or a company under the control of the authority has an interest

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(disregarding an interest in land which is in reversion on a lease granted for more than 7 years);

(c) the aggregate of—

(i) grants made either by the authority and being expenditure for capital purposes or by a company under the control of the authority, and

(ii) the nominal value of shares or stock in the company which is owned by the authority or by a company under the control of the authority,

exceeds one-half of the net assets of the company;

(d) the aggregate of—

(i) grants falling within paragraph (c)(i) above,

(ii) loans or other advances made or guaranteed by the authority or by a company under the control of the authority, and

(iii) the nominal value referred to in paragraph (c)(ii) above,

exceeds one-half of the fixed and current assets of the company;

(e) the company at that time occupies land by virtue of an interest which it obtained from the local authority or a company under the control of the authority and which it so obtained at less than the best consideration reasonably obtainable; and

(f) the company intends at that time to enter into (or complete) a transaction and, when that is done, there will then be a business relationship between the company and the authority by virtue of any of paragraphs (a) to (e) above.

(4) In subsection (3) above—

(a) the reference in paragraph (c) to the net assets of the company shall beconstrued in accordance with section 152(2) of the [M107]Companies Act 1985; and

(b) the reference in paragraph (d) to the fixed and current assets of the company shall be construed in accordance with paragraph 77 of Schedule 4 to that Act;

and in either case, the reference is a reference to those assets as shown in the most recent balance sheet of the company on which, at the time in question, the auditors have made a report or, if there is no such balance sheet, as estimated by the local authority for the time in question.

(5) For the purposes of this section, a person is at any time associated with a local authority if—

(a) he is at that time a member of the authority;

(b) he is at that time an officer of the authority;

(c) he is at that time both an employee and either a director, manager, secretary or other similar officer of a company which is under the control of the authority; or

(d) at any time within the preceding four years he has been associated with the authority by virtue of paragraph (a) above.

(6) If and to the extent that the Secretary of State by order so provides, a person is at any time associated with a local authority if—

(a) at that time he is, or is employed by or by a subsidiary of, a person who for the time being has a contractual relationship with the authority to provide—

(i) advice with regard to the authority's interest in any company (whether existing or proposed to be formed), or

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(ii) advice with regard to the management of an undertaking or the development of land by a company (whether existing or proposed to be formed) with which it is proposed that the authority should enter into any lease, licence or other contract or to which it is proposed that the authority should make any grant or loan, or

(iii) services which facilitate the exercise of the authority's rights in any company (whether by acting as the authority's representative at a meeting of the company or as a director appointed by the authority or otherwise);

(b) at any time within the preceding four years, he has been associated with the authority by virtue of paragraph (b) or paragraph (c) of subsection (5)above;

(c) he is at that time the spouse of, or carries on business in partnership with, a person who is associated with the authority by virtue of subsection (5)(a) above; or

(d) he holds a relevant office in a political association or other body which, in the nomination paper of a person who is an elected member of the authority, formed part of that person's description.

(7) For the purposes of subsection (6)(d) above, an office in a political association or body is relevant to a local authority in the following circumstances—

(a) if the association or body is active only in the area of the local authority, any office in it is relevant; and

(b) in any other case, an office is relevant only if it is in a branch or other part of the association or body which is active in the area of the local authority.

(8) In relation to a company which is an industrial and provident society, any reference in this section to the directors of the company is a reference to the members of the committee of management.

(9) Subject to subsections (4) and (8) and section 67 above, expressions used in this section have the same meaning as in the [M108]Companies Act 1985.

Modifications etc. (not altering text)
C86 S. 69 applied (with modifications) (11.3.1996) by S.I. 1996/330, **reg. 9(2)**

Commencement Information
I4 S. 69 wholly in force at 7.10.1993; s. 69 not in force at Royal Assent see s. 195(2); s. 69 in force for certain purposes at 16.1.1990 by S.I.1989/2445, **art. 4**; s. 69 in force so far as not already in force at 7.10.1993 by S.I. 1993/2410, **art. 3**

Marginal Citations
M107 1985 c.6.
M108 1985 c. 6.

70 Requirements for companies under control or subject to influence of localauthorities.

(1) In relation to companies under the control of local authorities and companies subject to the influence of local authorities, the Secretary of State may by order make provision regulating, forbidding or requiring the taking of certain actions or courses of action; and an order under this subsection may—

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(a) make provision in relation to those companies which are arm's length companies different from that applicable to companies which are not; and

(b) make provision in relation to companies under the control of local authorities different from that applicable in relation to companies under the influence of local authorities.

(2) It shall be the duty of every local authority to ensure, so far as practicable, that any company under its control complies with **[**F146the provisions for the time being made by order under subsection (1) above**][**F146any provisions made by order under subsection (1) above which are for the time being applicable to it**]**; and if a local authority fails to perform that duty in relation to any company, any payment made by the authority to that company and any other expenditure incurred bythe authority in contravention of any such provisions shall be deemed for the purposes of **[**F147the Audit Commission Act 1998**]** to be expenditure which is unlawful.

(3) In order to secure compliance, in relation to companies subject to the influence of **[**F148local authorities**][**F148a local authority**]**, with provisions made by virtue of subsection (1) above, an order under that subsection may prescribe requirements to be complied with by **[**F149any**][**F149the**]** local authority in relation to conditions to be included in such leases, licences, contracts, gifts, grants or loans as may be so prescribed which are made with or to a company subject to the influence of the local authority.

(4) It shall be the duty of **[**F150every local authority to comply with any requirements for the time being prescribed**][**F150a local authority to comply with any requirements for the time being applicable to it**]** under subsection (3) above; and if a local authority fails to perform that duty, any expenditure which is incurred by the local authority under the lease, licence, contract, gift, grant or loan in question shall be deemed for the purposes of **[**F151the Audit Commission Act 1998**]** to be expenditure which is unlawful.

(5) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection may make provision requiring acompany or local authority to obtain the consent of the Secretary of State,or of the Audit Commission for Local Authorities in England and Wales, before taking any particular action or course of action.

[F152(6) An order under subsection (1) may be made in relation to—

(a) all local authorities,

(b) particular local authorities, or

(c) particular descriptions of local authority.**]**

Textual Amendments

F146 Words in s. 70(2) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 30(2)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F147 Words in s. 70(2) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 18(3)(a)**

F148 Words in s. 70(3) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 30(3)(a)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F149 Word in s. 70(3) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 30(3)(b)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F150 Words in s. 70(4) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 30(4)**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F151 Words in s. 70(4) substituted (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. para. 18(3)(b)**

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F152 S. 70(6) inserted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 3 para. 3**; S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

Commencement Information

I5 S. 70 wholly in force at 7.10.1993; s. 70 not in force at Royal Assent see s. 195(2); s. 70 in force for certain purposes at 16.1.1990 by S.I.1989/2445, **art. 4**; s. 70 in force so far as not already in force at 7.10.1993 by S.I.1993/2410, **art. 3**

71 Control of minority interests etc. in certain companies.

(1) In relation to a local authority, subsection (2) below applies to any company other than—

(a) a company which is or, if the action referred to in that subsection is taken, will be under the control of the local authority; and

(b) a company of a description specified for the purposes of this section by an order made by the Secretary of State;

and in this section an "authorised company" means a company falling within paragraph (b) above.

(2) Except with the approval of the Secretary of State, in relation to acompany to which this subsection applies, a local authority may not—

(a) subscribe for, or acquire, whether in their own name or in the name of a nominee, any shares or share warrants in the company;

(b) become or remain a member of the company if it is limited by guarantee;

(c) exercise any power, however arising, to nominate any person to become a member of the company;

(d) exercise any power to appoint directors of the company;

(e) permit any officer of the authority, in the course of his employment, to make any such nomination or appointment as is referred to in paragraph (c) or paragraph (d) above; or

(f) permit an officer of the authority, in the course of his employment, to become or remain a member or director of the company.

(3) Any approval of the Secretary of State under subsection (2) above may be general or relate to any specific matter or company.

(4) A local authority may not take any action, or refrain from exercising any right, which would have the result that a person who is disqualified from membership of the authority (otherwise than by being employed by that or any other local authority or by a company which is under the control of a local authority) becomes a member or director of an authorised company or is authorised, in accordance with section 375 of the [M109]Companies Act 1985, to act as the authority's representative at a general meeting of an authorised company (or at meetings of an authorised company which include a general meeting).

(5) In any case where,—

(a) in accordance with section 375 of the Companies Act 1985, a local authority have authorised a member or officer of the authority to act as mentioned in subsection (4) above, or

(b) a member or officer of a local authority has become a member or director of an authorised company as mentioned in subsection (7) below,

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the authority shall make arrangements (whether by standing orders or otherwise) for enabling members of the authority, in the course of proceedings of the authority (or of any committee or sub-committee thereof), **[**[F153]or, where a local authority is operating executive arrangements under Part II of the Local Government Act 2000, for enabling members of the executive, in the course of proceedings of the executive (or of any committee of the executive),**]** to put to the member or officer concerned questions about the activities of the company.

(6) Nothing in subsection (5) above shall require the member or officer referred to in that subsection to disclose any information about the company which has been communicated to him in confidence.

(7) Any member or officer of a local authority who has become a member or director of an authorised company by virtue of—

(a) a nomination made by the authority, or

(b) election at a meeting of the company at which voting rights were exercisable (whether or not exercised) by the authority or by a person bound to vote in accordance with the instructions of the authority, or

(c) an appointment made by the directors of another company, the majority of whom became directors of that company by virtue of a nomination made by the authority or election at a meeting of the company at which voting rights were exercisable as mentioned in paragraph (b) above,

shall make a declaration to the authority, in such form as they may require, of any remuneration or re-imbursement of expenses which he receives from the company as a member or director or in respect of anything done on behalf of the company.

(8) Subject to section 67 above, expressions used in this section have the same meaning as in the Companies Act 1985.

Textual Amendments

F153 Words in s. 71(5) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 26(1); S.I. 2002/808, arts. 1(2), **25(1)**

Commencement Information

I6 S. 71 partly in force; s. 71 not in force at Royal Assent see s. 195(2); s. 71 in force for specified purposes at 16.1.1990 by S.I. 1989/2445, **art. 4**; s. 71(1)(5) in force for specified purposes and s. 71(4)(6)(8) fully in force at 1.4.1995 by S.I. 1995/841, **art. 2** (with transitional provisions in art. 3)

Marginal Citations

M109 1985 c. 6.

72 Trusts influenced by local authorities.

(1) The Secretary of State may by order made by statutory instrument adapt theprovisions of section 69 above so as to make them applicable to trusts which are not charitable; and, subject to subsection (2) below, this Part shall apply in relation to trusts which are subject to local authority influence by virtue of that section as so adapted as it applies in relation to companies which are subject to local authority influence.

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(2) In the exercise of the power conferred by section 70 above, as applied in relation to trusts by subsection (1) above, the Secretary of State may make different provision for trusts as compared with companies.

Commencement Information

I7 S. 72 wholly in force at 7.10.1993; s. 72 not in force at Royal Assent see s. 195(2); s. 72 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, **art. 4**; s. 72 in force so far as not already in force at 7.10.1993 by S.I. 1993/2410, **art. 3**

73 Authorities acting jointly and by committees.

(1) In any case where—

(a) apart from this section a company would not be under the control of anyone local authority, but

(b) if the actions, powers and interests of two or more local authorities were treated as those of one authority alone, the company would be under the control of that one authority,

the company shall be treated for the purposes of this Part as under the control of each of the two or more local authorities mentioned in paragraph (b) above.

(2) In any case where, apart from this section, a company would not be treated as being subject to the influence of any one local authority, it shall be treated as being subject to the influence of each of a number of local authorities (in this section referred to as a "group") if the conditions in subsection (3) below are fulfilled with respect to the company and the group of authorities.

(3) The conditions referred to in subsection (2) above are—

(a) that at least one of the conditions in paragraphs (a) to (e) of subsection (3) of section 69 above would be fulfilled—

(i) if any reference therein to the company being under the control of a local authority were a reference to its being under the control of any one of the authorities in the group or of any two or more of them taken together; and

(ii) if any other reference therein to the local authority were a reference to any two or more of the authorities in the group taken together; and

(b) that at least one of the conditions in paragraphs (a) to (c) of subsection(1) of section 69 above would be fulfilled if any reference therein to the local authority were a reference to those local authorities who are taken into account under sub-paragraph (i) or sub-paragraph (ii) of paragraph (a) above taken together; and

(c) that if the condition (or one of the conditions) which would be fulfilled as mentioned in paragraph (b) above is that in subsection (1)(a) of section 69 above, then, so far as concerns each local authority in the group, at least one person who, in terms of subsection (5) of that section, is associated with that authority has the right to vote at a general meeting of the company; and

(d) that, if paragraph (c) above does not apply, then, so far as concerns each local authority in the group, a person who, in terms of section 69(5) above, is associated with the authority is a director of the company.

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(4) For the purposes of this Part, anything done, and any power exercisable,by a committee or sub-committee of a local authority, or by any of the authority's officers **[**F154or, where a local authority is operating executive arrangements under Part II of the Local Government Act 2000, by the authority's executive, any committee of the executive, or any member of the executive**]**, shall be treated as done or, as the case may be,exercisable by the authority.

(5) For the purposes of this Part, anything done, and any power exercisable,by a joint committee of two or more local authorities or by a sub-committee of such a joint committee shall be treated as done or, as the case may be, exercisable by each of the local authorities concerned.

Textual Amendments

F154 Words in s. 73(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 26(2); S.I. 2002/808, arts. 1(2), **25(2)**

PART VI

HOUSING FINANCE

Modifications etc. (not altering text)

C87 Pt. 6 (ss. 74-86) applied (1.4.1997) by 1992 c. 5, **s. 140G** (as inserted (1.4.1997) by 1996 c. 52, s. 121, **Sch. 12 paras. 4**; S.I. 1997/618, art. 2 (subject to transitional provisions in **Sch.**))

Housing accounts

74 Duty to keep Housing Revenue Account.

(1) A local housing authority shall keep, in accordance with proper practices, an account, called the "Housing Revenue Account", of sums falling to be credited or debited in respect of—

(a) houses and other buildings which have been provided under Part II of the M110Housing Act 1985 (provision of housing);

(b) land which has been acquired or appropriated for the purposes of thatPart;

(c) houses purchased under section 192 of that Act (purchase of house foundon appeal against repair notice to be unfit and beyond repair at reasonable cost);

(d) dwellings in respect of which a local authority have received assistance under section 1 or section 4(2A) of the M111Housing (RuralWorkers) Act 1926;

(e) any property which—

(i) with the consent of the Secretary of State given under section 417(1) of the Housing Act 1985,

(ii) with the consent of a Minister given under section 50(1)(e) of the M112Housing (Financial Provisions) Act 1958, or

(iii) by virtue of section 50(2) of that Act (houses vesting in local authority on default of another person),

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was brought within the corresponding account kept under Part XIII of the Housing Act 1985 for years beginning before 1st April 1990; and

(f) such land, houses or other buildings not within the preceding paragraphsas the Secretary of State may direct.

(2) References in subsection (1) above and the other provisions of this Part to provisions of the Housing Act 1985 include, where the context so admits, references to the corresponding provisions of earlier enactments; and the reference in paragraph (b) of that subsection to land acquired for the purposes of Part II of that Act includes—

(a) land which a local authority were deemed to have acquired under Part V of the [M113]Housing Act 1957 by virtue of section 57(6) of that Act (land acquired for re-development in pursuance of re-development plan) before the repeal of that section on 25th August 1969; and

(b) any structures on such land which were made available to a local authority under section 1 of the [M114]Housing (Temporary Accommodation) Act 1944 (prefabs).

(3) Paragraphs (a) to (e) of subsection (1) above shall not apply to—

(a) land, houses or other buildings disposed of by the authority;

(b) land acquired by the authority for the purpose of disposing of houses provided, or to be provided, on the land, or of disposing of the land to a person who intends to provide housing accommodation on it **[**[F155]or facilities which serve a beneficial purpose in connection with the requirements of persons for whom housing accommodation is provided**]**;

(c) houses provided by the authority on land so acquired; or

(d) such land, houses or other buildings as the Secretary of State may direct;

and paragraph (a) of that subsection shall not apply to houses and other buildings provided on or before 6th February 1919.

(4) A local housing authority not possessing property to which subsection (1)above applies shall nevertheless keep a Housing Revenue Account unless the Secretary of State consents to their not doing so and they comply with such conditions (if any) as may be specified in the consent.

(5) In this Part—

(a) references to the houses or other property of an authority within the authority's Housing Revenue Account are references to the houses, dwellings or other property to which subsection (1) above for the time being applies;and

(b) references (however expressed) to a disposal are references to a conveyance of the freehold, or a grant or assignment of a lease (other than a shared ownership lease) which is a long tenancy within the meaning given by section 115 of the [M115]Housing Act 1985.

(6) Sections 417 to 420 of, and Schedule 14 to, the Housing Act 1985 (which are superseded by this section, sections 75 to 78 below and Schedule 4 to this Act) shall cease to have effect.

Textual Amendments

F155 Words in s. 74(3)(b) inserted (24.9.1996) by 1996 c. 52, ss. 222, 232(2), **Sch. 18 para. 24(2)**

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Marginal Citations

M110 1985 c. 68.
M111 1926 c. 56.
M112 1958 c. 42.
M113 1957 c. 56.
M114 1944 c. 36.
M115 1985 c. 68.

75 The keeping of the Housing Revenue Account.

Schedule 4 to this Act shall have effect with respect to the keeping of a local housing authority's Housing Revenue Account, as follows—

Part I - Credits to the account.

Part II - Debits to the account.

Part III - Special cases.

Part IV - Supplementary provisions.

76 Duty to prevent debit balance on Housing Revenue Account.

(1) This section applies where for any year ("the relevant year") a local housing authority who are required to keep a Housing Revenue Account possess any houses or other property within the account.

(2) The authority shall, during the months of January and February immediately preceding the relevant year, formulate proposals which satisfy the requirements of subsection (3) below and relate to—

(a) the income of the authority for the year from rents and other charges in respect of houses and other property within their Housing Revenue Account;

(b) the expenditure of the authority for the year in respect of the repair,maintenance, supervision and management of such property; and

(c) such other matters connected with the exercise of the authority's functions in relation to such property as the Secretary of State may direct.

(3) Proposals formulated by the authority under subsection (2) above satisfy the requirements of this subsection at any time if, on the assumption that thefollowing will prove correct, namely—

(a) the best assumptions that they are able to make at that time as to all matters which may affect the amounts falling to be credited or debited to their Housing Revenue Account for the relevant year; and

(b) the best estimates that they are able to make at that time of the amounts which, on those assumptions, will fall to be so credited or debited,

implementation of the proposals will secure that the account for that year does not show a debit balance.

(4) No assumptions shall be made under subsection (3) above as to the exerciseby the Secretary of State of any power except on the basis of information published by him or on his behalf or supplied by him to the authority.

(5) Subject to subsections (6) and (7) below, the authority shall implement the proposals formulated by them under subsection (2) above.

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(6) The authority shall from time to time determine whether the proposals formulated under subsection (2) above satisfy the requirements of subsection(3) above; and—

(a) termine that question in the affirmative, they may make such revisions of the proposals as they think fit, so long as the proposals (as so revised) continue to satisfy those requirements;

(b) if they determine that question in the negative, they shall make such revisions of the proposals as are reasonably practicable towards securing that the proposals (as so revised) satisfy those requirements.

(7) Where the proposals formulated under subsection (2) above are revised under subsection (6) above, subsections (3) to (6) above shall apply inrelation to the proposals as so revised as they applied in relation to the proposals as originally formulated.

(8) The authority shall, within one month of formulating their proposals under subsection (2) above, or of revising those proposals under subsection (6)above, prepare a statement setting out—

(a) those proposals as so formulated or so revised;

(b) the estimates made by them under subsection (3)(b) above on the basis of which those proposals were so formulated or so revised; and

(c) such other particulars relating to those proposals and estimates as the Secretary of State may direct;

and a direction under paragraph (c) above may specify the manner in which the particulars are to be set out in the statement.

(9) The authority shall, until the end of the year next following the relevant year, keep copies of the statement which is for the time being the latest statement prepared by them under subsection (8) above available for inspection by the public without charge at all reasonable hours at one or more of their offices; and any person shall be entitled to take copies of, or extracts from,that statement when so made available.

Modifications etc. (not altering text)
C88 S. 76 modified (28.11.1994) by S.I. 1994/2825, **reg. 39**

77 Power to keep Housing Repairs Account.

(1) A local housing authority who are required to keep a Housing RevenueAccount may also keep, in accordance with proper practices, an account called the "Housing Repairs Account".

(2) An authority who keep a Housing Repairs Account shall carry to the credit of the account for any year—

(a) sums transferred for the year from their Housing Revenue Account; and

(b) sums receivable by the authority for the year in connection with the repair or maintenance of houses or other property within their Housing Revenue Account (either from their tenants or from the sale of scrapped or salvaged materials).

(3) The authority shall carry to the debit of the account for any year—

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(a) all expenditure incurred by them for the year in connection with therepair or maintenance of houses or other property within their Housing Revenue Account;

(b) such expenditure incurred by them for the year in connection with the improvement or replacement of houses or other property within their Housing Revenue Account as may from time to time be determined by the Secretary of State; and

(c) sums transferred for the year to the Housing Revenue Account in accordance with subsection (5) below.

(4) The authority shall secure that sufficient credits are carried to the account to secure that no debit balance is shown in the account for any year.

(5) The authority may carry some or all of any credit balance in the account for any year to the credit of their Housing Revenue Account.

(6) So much of any credit balance shown in an authority's Housing Repairs Account at the end of the year beginning 1st April 1989 as is not carried tothe credit of their Housing Revenue Account for that year shall be carried forward and credited to some other revenue account of theirs for the year beginning 1st April 1990.

78 Directions to secure proper accounting.

The Secretary of State may give directions as to the accounting practices (whether actual or prospective) which are to be followed by a local housing authority in the keeping of their Housing Revenue Account or Housing RepairsAccount.

[F156 78A Directions as to treatment of service charges, &c.

(1) The Secretary of State may give directions as to what items or amounts are to be regarded as referable to property within a local housing authority's Housing Revenue Account where one or more parts of a building have been disposed of but the common parts remain property within that account.

(2) Any such direction also has effect for the purposes of any Housing Repairs Account kept by the authority.

(3) Directions under this section may give the authority a discretion as to whether items or amounts are accounted for in the Housing Revenue Account or any Housing Repairs Account or in another revenue account.

(4) In this section "common parts" includes the structure and exterior of the building and common facilities provided, whether in the building or elsewhere, for persons who include the occupiers of one or more parts of the building.**]**

Textual Amendments

F156 S. 78A inserted (1.10.1996 with effect as mentioned in Sch. 18 para. 4(2) of the amending Act) by 1996 c. 52, s. 222, **Sch. 18 para. 4(1)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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[F157 78B Directions as to accounting for work subject to competitive tendering.

(1) This section applies where work is carried out by a local housing authority which has successfully bid for the work on a competitive basis.

(2) The Secretary of State may give directions—

(a) to secure that the amount debited to the Housing Revenue Account or any Housing Repairs Account of the authority in respect of the work reflects the amount of the authority's successful bid for the work rather than expenditure actually incurred;

(b) allowing an authority to credit to its Housing Revenue Account any surpluses reasonably attributable to work undertaken on or in connection with property within that account.

(3) Directions under subsection (2)(a) may make provision for determining the amount to be treated as the amount of the authority's successful bid.

References in this Part to expenditure shall be construed as references to the amount falling to be debited in accordance with the directions.

(4) Directions under subsection (2)(b) may make provision as to the ascertainment of the surpluses referred to and the circumstances in which a surplus is or is not to be taken to be attributable to property within an authority's Housing Revenue Account.**]**

Textual Amendments

F157 S. 78B inserted (1.10.1996 with effect as mentioned in Sch. 18 para. 4(2) of the amending Act) by 1996 c. 52, s. 222, **Sch. 18 para. 4(1)**; S.I. 1996/2402, **art. 3** (subject to transitional provisions in Sch.)

Housing subsidies

79 Housing Revenue Account subsidy.

(1) Housing Revenue Account subsidy shall be payable for each year to local housing authorities.

(2) **[**F158 Housing Revenue Account subsidy shall be paid by the appropriate person—

(a) in such instalments, at such times and in such manner, and

(b) subject to such conditions as to claims, records, certificates, supply of Housing Revenue Account business plans, audit or otherwise,

as the appropriate person may determine.**]**

(3) Sections 421 to 427A of the M116 Housing Act 1985 (which are superseded, in their application to local housing authorities, by this section and sections 80 and 86 below) shall cease to apply in relation to such authorities.

Textual Amendments

F158 S. 79(2) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(1)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

Marginal Citations
M116 1985 c. 68.

80 Calculation of Housing Revenue Account subsidy.

(1) **[**F159The amount of Housing Revenue Account subsidy (if any) payable to a local housing authority for a year shall be calculated in such manner as the appropriate person may from time to time determine.

(1A) A determination under subsection (1) above may (in particular)—

(a) provide for all or part of the amount to be calculated in accordance with a formula or formulae;

(b) provide for the amount, or part of the amount, to be calculated by reference to—

(i) whether any Housing Revenue Account business plan that the authority are required to prepare by any time has been supplied to the appropriate person or has been supplied to the appropriate person by that time;

(ii) the appropriate person's assessment of any Housing Revenue Account business plan prepared by the authority and supplied to the appropriate person;

(iii) whether conditions are met that relate to, or to the authority's conduct of, the authority's finances or any aspect of those finances;

(iv) an assessment of the state of, or of the authority's conduct of, the authority's finances or any aspect of those finances;

(v) whether conditions are met that relate to housing provided by the authority, to housing functions of the authority or to the authority's performance in exercising such functions;

(vi) an assessment of, or of the state of, housing provided by the authority;

(vii) an assessment of the authority's performance in exercising functions in relation to housing provided by the authority or in otherwise exercising housing functions;

(viii) whether, as respects housing provided by the authority, management functions exercisable in relation to that housing have been entrusted to a company;

(ix) whether, where such functions have been entrusted to a company, conditions are met that relate to the performance of the company in exercising the functions;

(x) an assessment, where such functions have been entrusted to a company, of the performance of the company in exercising those functions;

(xi) assumptions as to any matter;

(c) have the effect that the amount, or part of the amount, is nil or a negative amount;

(d) make different provision for different parts of the amount.**]**

(2) If the amount so calculated is a negative amount, the authority shall forthat year carry the equivalent positive amount from their Housing Revenue Account to the credit of some other revenue account of theirs.

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(3) In determining a formula for the purposes of this section for any year, **[**F161the Secretary of State may**][**F161the appropriate person may (in particular)**]** include variables framed (in whatever way he considers appropriate) by reference to—

(a) any amounts which fall to be or were credited or debited to the authority's Housing Revenue Account for that year or any previous year;

(b) any amounts which, on such assumptions as the **[**F162Secretary of State**][**F162appropriate person**]** may determine (whether or not borne out or likely to be borne out by events), would fall to be or would have been so credited or debited; and

(c) such other matters relating to the authority, or to (or to tenants of) houses and other property which are or have been within the account, as he thinks fit;

[F163and the Secretary of State may make any determination falling to be made for the purposes of a formula on the basis of information received by him on or before such date as he thinks fit.**]**

(4) Without prejudice to the generality of subsection (3) above, a formula may require it to be assumed that the amount for any year of the rental income or housing expenditure of each authority (or each authority in England or in Wales) is to be determined—

(a) by taking the amount which the **[**F164Secretary of State**][**F164appropriate person**]** considers (having regard, amongst other things, to past and expected movements in incomes, costs and prices) should be or should have been the aggregate amount for that year of the rental incomes or, as the case may be, the housing expenditure of all of the authorities (or all of the authorities in England or Wales) taken together; and

(b) by apportioning that amount between them in such manner as the **[**F164Secretary of State**][**F164appropriate person**]** considers appropriate (which may involve, if he thinks fit, inferring the aggregate values of the houses and other property within their respective Housing Revenue Accounts from the average values of any of the houses and other property which they have disposed of);

and in this subsection "rental income" means income falling within item 1 of Part I of Schedule 4 to this Act and "housing expenditure" means expenditure falling within item 1 of Part II of that Schedule or falling to be debited to the authorities' Housing Repairs Accounts.

[F165(5) Nothing in subsections (1A) to (4) above is to be taken as limiting the appropriate person's discretion under subsection (1) above.

(6) The appropriate person may make a determination under subsection (1) above, or a calculation under such a determination, on the basis of information received by him on or before such date as he thinks fit.**]**

Textual Amendments

F159 S. 80(1)(1A) substituted for s. 80(1) (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(2)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F160 Words in s. 80(1) repealed (20.7.1993) by 1993 c. 28, ss. 140, 187(2), **Sch.22**

F161 Words in s. 80(3) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(3)(a)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F162 Words in s. 80(3)(b) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(4)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

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F163 Words in s. 80(3) repealed (18.11.2003 for E.) by Local Government Act 2003 (c. 26), ss. 89(3)(b), 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 3(a)(i)(iii) (with art. 8, Sch.)

F164 Words in s. 80(4) substituted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(4)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F165 S. 80(5)(6) inserted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(5)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

Modifications etc. (not altering text)

C89 S. 80: power to restrict conferred (1.12.1998) by 1998 c. 38, s. 22(5), **Sch. 3 Pt. II para. 8** (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

[F166 80ZA Negative amounts of subsidy payable to appropriate person

(1) If calculation in accordance with a determination under section 80(1) above of the amount of Housing Revenue Account subsidy payable to a local housing authority for a year produces a negative amount—

(a) the authority shall for that year debit the equivalent positive amount to their Housing Revenue Account, and

(b) pay that equivalent amount to the appropriate person.

(2) Amounts payable to the appropriate person under subsection (1)(b) above shall be paid to him in such instalments, at such times and in such manner as he may determine.

(3) A payment in respect of an amount payable under subsection (1)(b) above shall be accompanied by such information as the appropriate person may require.

(4) The appropriate person may charge a local housing authority interest, at such rates and for such periods as he may determine, on any sum payable to him under subsection (1)(b) above that is not paid by such time as may be determined under subsection (2) above for its payment.

(5) The appropriate person may charge a local housing authority an amount equal to any additional costs incurred by him as a result of any sum payable to him under subsection (1)(b) above not being paid by such time as may be determined under subsection (2) above for its payment.**]**

Textual Amendments

F166 S. 80ZA inserted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 90(1)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

[F167 80A Final decision on amount of Housing Revenue Account subsidy.

(1) The Secretary of State shall, as soon as he thinks fit after the end of the year, make a final decision as to the amount (if any) of Housing Revenue Account subsidy payable to a local housing authority for that year and notify the authority in writing of his decision.

[F168 (1A) Notification in writing of a decision under this section is to be taken as given to a local housing authority where notice of the decision is sent using electronic communications to such address as may for the time being be notified by that authority to the Secretary of State for that purpose.

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F168(1B) Notification in writing of a decision under this section is also to be treated as given to a local housing authority where—

(a) the Secretary of State and that authority have agreed that notifications of decisions under this section required to be given in writing to that authority may instead be accessed by that authority on a web site;

(b) the decision is a decision to which that agreement applies;

(c) the Secretary of State has published the decision on a web site;

(d) that authority is notified, in a manner for the time being agreed for the purpose between it and the Secretary of State, of—

(i) the publication of the decision on a web site;

(ii) the address of that web site; and

(iii) the place on that web site where the notice may be accessed, and how it may be accessed.

F168(1C) A local housing authority which is no longer willing to accept electronic communications for the notification of decisions under this section, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (1A) above, and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

F168(1D) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (1B) above may revoke the agreement, and such a revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.**]**

(2) Once notified to the authority the decision is conclusive as to the amount (if any) payable by way of subsidy and shall not be questioned in any legal proceedings.

(3) Where the amount of Housing Revenue Account subsidy paid to an authority is less than the amount finally decided, the authority is entitled to be paid the balance.

(4) Where Housing Revenue Account subsidy has been paid to an authority in excess of the amount finally decided, the Secretary of State may recover the excess, with interest from such time and at such rates as he thinks fit.

[F169(4A) Without prejudice to other methods of recovery, a sum recoverable under subsection (4) above may—

(a) be recovered by withholding or reducing subsidy, and

(b) if the sum is referable to housing benefit in respect of houses or other property within the authority's Housing Revenue Account, be recovered by withholding or reducing rent rebate subsidy under Part 8 of the Social Security Administration Act 1992.**]**

(5) Nothing in this section affects any power of the Secretary of State to vary a determination as to the amount of subsidy before the final decision is made.**]**

Textual Amendments

F167 S. 80A inserted (1.10.1996 with effect as mentioned in Sch. 18 para. 5(2) of the amending Act) by 1996 c. 52, s. 222, **Sch. 18 para. 5(1)**; S.I. 1996/2402, **art. 3**

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F168 S. 80A(1A)-(1D) inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 2** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

F169 S. 80A(4A) substituted for words (18.11.2003) by Local Government Act 2003 (c. 26), s. 128(3)(e), **Sch. 7 para. 31**; S.I. 2003/2938, art. 2(a) (with art. 8, Sch.)

Modifications etc. (not altering text)

C90 S. 80A extended (W.) (1.4.2001) by S.I. 2001/605, art. 2(1), **Sch.**

F170 81 . . . . . .

Textual Amendments

F170 S. 81 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), s. 3, **Sch.1**

82 Residual debt subsidy for year 1989–90.

(1) Where, in the case of any local housing authorities to whom no housing subsidy is payable for the year beginning 1st April 1989, houses or other property within their respective Housing Revenue Accounts—

(a) are disposed of in that year, or

(b) are in that year the subject of such other transactions as the Secretary of State may determine,

residual debt subsidy shall be payable for that year to those authorities in respect of costs relating to the houses or other property.

(2) Residual debt subsidy shall be paid by the Secretary of State at such times, in such manner and subject to such conditions as to records, certificates, audit or otherwise as he may, with the agreement of the Treasury, determine.

(3) Payment of residual debt subsidy shall be subject to the making of a claim for it in such form, and containing such particulars, as the Secretary of State may from time to time determine.

(4) Residual debt subsidy paid to a local housing authority shall be credited to the authority's Housing Revenue Account and, accordingly, for the year beginning 1st April 1989 the reference to housing subsidy in item 3 in Part I of Schedule 14 to the [M117]Housing Act 1985 shall be taken to include a reference to residual debt subsidy.

Marginal Citations

M117 1985 c. 68.

83 Calculation of residual debt subsidy.

(1) The amount of the residual debt subsidy (if any) payable to a local housing authority shall be calculated—

(a) in accordance with such formulae as the Secretary of State may from time to time determine; and

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(b) by reference to such houses or other property as the Secretary of State may for the time being determine.

(2) A determination of the Secretary of State under this section may relateto disposals or other transactions which occur before the making of the determination.

84 Adjustment of housing subsidy for year 1989-90.

(1) In any case where, apart from this subsection and subsection (2) below, the amount of housing subsidy payable to a local housing authority for the year beginning 1st April 1989 would be reduced or extinguished as a result of the transfer from the authority to a housing action trust of housing, land orother property as mentioned in section 74 of the [M118]Housing Act 1988, the Secretary of State, in the exercise of his power under section 423(2) of the Housing Act 1985, may adjust the authority's base amount forthat year to take account of the effect of that transfer.

(2) If, in accordance with subsection (1) above, the Secretary of State can make an adjustment of a local housing authority's base amount for the year beginning 1st April 1989 to take account of a transfer of housing, land orother property to a housing action trust, he may, instead of or as well as making such an adjustment, take account of the effect of the transfer in the making or varying of any determination for that year under section 424 (housing costs differential) or in the making of any determination undersection 425 (local contribution differential) of the Housing Act 1985.

(3) Subsections (1) and (2) above shall be deemed to have been in force so as to be applicable for the year beginning 1st April 1989.

Marginal Citations
M118 1988 c. 50.

Supplementary

85 Power to obtain information.

(1) A local housing authority, and any officer or employee of a local housingauthority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to exercise his functions under section 80 or 83 above.

(2) A local housing authority shall supply the Secretary of State with such certificates supporting the information required by him as he may specify.

(3) If a local housing authority, or any officer or employee of a local housing authority concerned with their housing functions, fails to comply with subsection (1) or (2) above before the end of such period as the Secretary of State may specify, he may exercise his functions under section 80 or 83 above on the basis of such assumptions and estimates as he sees fit.

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86 Recoupment of subsidy in certain cases.

(1) Where Housing Revenue Account subsidy or residual debt subsidy has been paid to a local housing authority and it appears to the Secretary of State that the case falls within rules published by him, he may recover from the authority **[**F171any or F172. . . other authority which subsequently exercises the functions of a local housing authority for any part of the same area**]** the whole or such part of the payment as he may determine in accordance with the rules, with interest from such time and at such rates ashe may so determine.

(2) Without prejudice to other methods of recovery, a sum recoverable underthis section may be recovered by withholding or reducing subsidy.

Textual Amendments

F171 Words in s. 86(1) inserted (28.11.1994) by S.I. 1994/2825, **reg. 10**

F172 Words in s. 86(1) omitted (1.4.1996) by virtue of S.I. 1996/619, **art. 10**

87 Determinations and directions.

(1) A determination made or direction given by the Secretary of State under this Part—

(a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housing authorities;

(b) may be made before, during or after the end of the year to which it relates; and

(c) may be varied or revoked by a subsequent determination or direction.

(2) Before making a determination or giving a direction under this Part relating to all local housing authorities or any description of such authorities, the Secretary of State shall consult such representatives of local government and relevant professional bodies as appear to him to be appropriate; and, before making a determination or giving a direction relating to a particular local housing authority, he shall consult that authority.

(3) As soon as practicable after making a determination under this Part, the Secretary of State shall send a copy of the determination to the local housing authority or authorities to which it relates.

[F173(4) References in this section to sending to a local housing authority a copy of a determination under this Part include references to using electronic communications for sending a copy of a determination to such address as may for the time being be notified to the Secretary of State by that authority for that purpose.

F174(5) For the purposes of this section a copy of a determination under this Part is also to be treated as sent to a local housing authority where—

(a) the Secretary of State and that authority have agreed to the authority instead having access to determinations on a web site;

(b) the determination is a determination to which that agreement applies;

(c) the Secretary of State has published the determination on a web site;

(d) that authority is notified, in a manner for the time being agreed for the purpose between that authority and the Secretary of State, of—

(i) the publication of the determination on a web site;

(ii) the address of that web site; and

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(iii) the place on that web site where the determination may be accessed, and how it may be accessed.

F175(6) A local housing authority which is no longer willing to accept electronic communications for the sending of copies of determinations under this Part, may withdraw a notification of an address given to the Secretary of State for the purposes of subsection (4) above and such a withdrawal shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to withdraw the notification of the address given.

F176(7) A local housing authority which has entered into an agreement with the Secretary of State under paragraph (a) of subsection (5) above may revoke the agreement and such a revocation shall take effect on a date specified by the authority being a date no less than one month after the date on which the authority informs the Secretary of State that it wants to revoke the agreement.**]**

Textual Amendments

F173 S. 87(4)-(7) inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 3** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

F174 S. 87(4)-(7) inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 3** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

F175 S. 87(4)-(7) inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 3** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

F176 S. 87(4)-(7) inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 3** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

Modifications etc. (not altering text)

C91 S. 87 extended (W.) (1.4.2001) by S.I. 2001/605, art. 2(1), **Sch.**

[F177 87A Orders amending Part 6

(1) The appropriate person may by order—

(a) amend, repeal or re-enact provisions of sections 74 to 76 and 78 of, and Schedule 4 to, this Act;

(b) provide for any such provisions—

(i) not to apply, whether at all or in cases specified by the order or to authorities so specified;

(ii) to apply, whether generally or in cases so specified or to authorities so specified, subject to modifications so specified.

(2) An order under this section may (in particular)—

(a) add items to, or remove items from, Part 1 or 2 of Schedule 4 to this Act, or vary items of those Parts;

(b) confer discretions, or expand, curtail or repeal discretions conferred, on the appropriate person or any other person;

(c) be made before, during or after the end of any year to which it relates.

(3) In subsection (2)(b) above "discretion" includes power to make a determination or give a direction.

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(4) An order under this section may—

(a) contain such incidental, consequential, transitional or supplementary provisions (including provisions amending or repealing enactments), and such savings, as the appropriate person considers appropriate;

(b) make different provision for different cases or authorities.

(5) The power to make an order under this section is exercisable by statutory instrument.

(6) The Secretary of State shall not make an order under this section unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament.**]**

Textual Amendments

F177 S. 87A inserted (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 91(1)**, 128(2)(d)

88 Construction and application of Part VI.

(1) In this Part—

(a) expressions which are used in Part XIII of the [M119]Housing Act 1985 (general financial provisions) have the same meaning as in that Part;

[[F178](aa) "the appropriate person" means—

(i) in relation to England, the Secretary of State, and

(ii) in relation to Wales, the National Assembly for Wales;**]**

(b) references to a local housing authority's Housing Revenue Account or Housing Repairs Account include, where the context so admits, references to the corresponding account kept by them under that Part;

(c) references to a revenue account of a local housing authority other than their Housing Revenue Account do not include references to a Housing Repairs Account; **[**[F179] and**]**

(d) references to proper practices shall be construed in accordance with section 66(4) above**[**[F180]; and

[F181](e) "electronic communication" means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)—

[F182](i) by means of **[**[F183]a telecommunication system (within the meaning of the Telecommunications Act 1984)**][**[F183]an electronic communications network**]**; or

(ii) by other means but while in an electronic form;

[F184](f) "address", in relation to electronic communications, includes any number or address used for the purposes of such communications.**]**

(2) Sections 82 to 84 above and, so far as relating to those sections or residual debt subsidy, this section and sections 85 to 87 above, have effect for the year beginning on 1st April 1989.

(3) Subject to subsection (2) above, this Part has effect for years beginning on or after 1st April 1990.

(4) If, before the passing of this Act, any statement was made by or on behalf of the Secretary of State—

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(a) that, if this Part were then in force, he would make, under section 83above, such a determination as is set out in the statement, and

(b) that, when this Act is passed, he is to be regarded as having made under that section the determination set out in the statement,

the determination set out in the statement shall have effect as if it had been validly made under section 83 above at the time of the statement.

(5) Any consultation undertaken—

(a) before the passing of this Act, and

(b) before the making of such a statement as is referred to in subsection (4) above, and

(c) in connection with a determination proposed to be set out in the statement,

shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.

(6) Any consultation undertaken before the passing of this Act in connection with a determination proposed to be made under this Part shall be as effective, in relation to that determination, as if this Part had been in force at the time the consultation was undertaken.

Textual Amendments

F178 S. 88(1)(aa) inserted (18.11.2003 for E.) by Local Government Act 2003 (c. 26), **ss. 89(6)**, 128(6); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.)

F179 Word in s. 88(1)(c) deleted (E.) (10.12.2000) by virtue of S.I. 2000/3056, **art. 4(a)**

F180 Word in s. 88(1)(c) deleted (E.) (10.12.2000) by virtue of S.I. 2000/3056, **art. 4(a)**

F181 S. 88(1)(e)(f) and the preceding "and" inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 4(b)** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

F182 1984 c. 12.

F183 Words in s. 88(1)(e)(i) substituted (25.7.2003 for specified purposes) by Communications Act 2003 (c. 21), s. 411(2), **Sch. 17 para. 100** (with Sch. 18); S.I. 2003/1900, arts. 1(2), 2(1), Sch. 1 (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))

F184 S. 88(1)(e)(f) and the preceding "and" inserted (E.) (10.12.2000) by S.I. 2000/3056, **art. 4(b)** and the said insertion extended to Wales (1.4.2001) by S.I. 2001/605, **art. 2(2)**

Marginal Citations

M119 1985 c. 68.

PART VII

RENEWAL AREAS

Modifications etc. (not altering text)

C92 Pt. VII (ss. 89-100) amended (24.9.1996) by 1996 c. 52, **ss. 221**, 232(2)

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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89 Declaration of renewal area.

(1) Where a local housing authority, upon consideration of **[**F185a report containing particulars of the matters**]** mentioned in subsection (3) below and of any other matters which the authority consider relevant, are satisfied—

(a) that the living conditions in an area within their district consisting primarily of housing accommodation are unsatisfactory, and

(b) that those conditions can most effectively be dealt with by declaring the area to be a renewal area,

then, subject to the following provisions of this Part, they may cause the area to be defined on a map and by resolution declare it to be a renewal area **[**F186for the period specified in the declaration**]** .

(2) F187. . . . . .

[F188(3) The matters referred to in subsection (1) above are—

(a) the living conditions in the area concerned;

(b) the ways in which those conditions may be improved (whether by the declaration of a renewal area or otherwise);

(c) the powers available to the authority (including powers available apart from this Act) if the area is declared to be a renewal area;

(d) the authority's detailed proposals for the exercise of those powers during the period that the area will be a renewal area (if so declared);

(e) the cost of those proposals;

(f) the financial resources available, or likely to be available, to the authority (from whatever source) for implementing those proposals; and

(g) the representations (if any) made to the authority in relation to those proposals,

and the report shall contain a recommendation, with reasons, as to whether a renewal area should be declared and, if so, the period for which the area should be a renewal area.

(4) Subject to section 95 below, an area which is declared to be a renewal area shall be such an area—

(a) until the end of the period specified in the declaration, or

(b) if at any time during that period the local housing authority by resolution extend the period for which the area is to be a renewal area, until the end of the period specified in the resolution (unless further extended under this paragraph).

(5) In considering whether—

(a) to declare an area to be a renewal area, or

(b) to extend the period for which an area is to be a renewal area,

a local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.

(6) Before exercising their power—

(a) to declare an area to be a renewal area, or

(b) to extend (or further extend) the period for which an area is to be a renewal area,

a local housing authority shall take the steps required by subsection (7) below.

(7) Those steps are such as appear to the authority best designed to secure—

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(a) that the detailed proposals referred to in subsection (3)(d) above or, where the authority are considering the extension of the period for which an area is to be a renewal area, such of those proposals as remain to be implemented, are brought to the attention of persons residing or owning property in the area; and

(b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning those proposals.

(8) A resolution under subsection (1) or (4)(b) above has effect from the day on which it is passed and is a local land charge.**]**

Textual Amendments

F185 Words in s. 89(1) substituted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 2(2)(a)** (with art. 14(2))

F186 Words in s. 89(1) inserted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 2(2)(b)** (with art. 14(2))

F187 S. 89(2) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), **arts. 1**, 14(1), 15 {Sch. 5 para. 2(3)}, {Sch. 6} (with art. 14(2))

F188 S. 89(3)-(8) substituted for s. 89(3)-(7) (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 2(4)** (with art. 14(2))

90 Conditions for declaration of renewal area.

F189 . . . . . .

Textual Amendments

F189 S. 90 repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 3**, **Sch. 6** (with art. 14(2))

[F190**91 Renewal area: steps to be taken after declaration or extension**

(1) As soon as may be after—

(a) declaring an area to be a renewal area; or

(b) extending (or further extending) the period for which an area is to be a renewal area,

a local housing authority shall take the steps required by subsection (2) below.

(2) Those steps are such as appear to the authority best designed to secure—

(a) that the resolution to which the declaration, or extension (or further extension) of the period, relates is brought to the attention of persons residing or owning property in the area; and

(b) that those persons are informed of the name and address of the person to whom should be addressed inquiries and representations concerning action to be taken with respect to the renewal area.**]**

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Textual Amendments

F190 S. 91 substituted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1(2)(3), 14, **Sch. 5 para. 4**

92 Duty to publish information.

(1) Where a local housing authority have declared an area to be a renewal area, they shall from time to time publish, in such manner as appears to them best designed to secure that the information is brought to the attention of persons residing or owning property in the area, information with respect to—

(a) the action they propose to take in relation to the area,

(b) the action they have taken in relation to the area, and

(c) the assistance available for the carrying out of works in the area,

being such information as appears to them best designed to further the purpose for which the area was declared a renewal area.

(2) F191 . . . . . .

Textual Amendments

F191 S. 92(2) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 5**, **Sch. 6** (with art. 14(2))

93 General powers of local housing authority.

(1) Where a local housing authority have declared an area to be a renewal area, the authority may exercise the powers conferred by this section.

(2) For the purpose of securing or assisting in securing all or any of the objectives mentioned in subsection (3) below, the authority may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, any land in the area on which there are premises consisting of or including housing accommodation or which forms part of the curtilage of any such premises; and the authority may provide housing accommodation on land acquired under this subsection.

(3) The objectives referred to in subsection (2) above are—

(a) the improvement or repair of the premises, either by the authority or by a person to whom they propose to dispose of the premises;

(b) the proper and effective management and use of the housing accommodation, either by the authority or by a person to whom they propose to dispose of the premises comprising the accommodation; and

(c) the well-being of the persons for the time being residing in the area.

(4) For the purpose of effecting or assisting the improvement of the amenities in the area, the authority may acquire by agreement, or be authorised by the Secretary of State to acquire compulsorily, any land in the area (including land which the authority propose to dispose of to another person who intends to effect or assist the improvement of those amenities).

(5) The authority may—

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(a) carry out works (including works of demolition) on land owned by the authority in the area (whether or not that land was acquired under subsection(2) or subsection (4) above); [F192]...

[F192](b) . . . . . .

[F192]....

(6) The authority may enter into an agreement with a housing association or other person under which, in accordance with the terms of the agreement, [F193]... the authority's functions under subsection (5) above are to be exercisable by that association or other person.

(7) If after—

(a) the authority have entered into a contract for the acquisition of land under subsection (2) or subsection (4) above, or

(b) a compulsory purchase order authorising the acquisition of land under either of those subsections has been confirmed,

the renewal area concerned ceases to be such an area or the land is excluded from the area, the provisions of the subsection in question shall continue to apply as if the land continued to be in a renewal area.

(8) The powers conferred by this section are without prejudice to any power which a local housing authority may have under or by virtue of any other enactment.

Textual Amendments

F192 S. 93(5)(b) and words repealed (19.7.2003) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1(3), 13(2), **Sch. 6** (with art. 13(4))

F193 Words in s. 93(6) repealed (19.7.2003) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1(3), 13(3), **Sch. 6** (with art. 13(4))

94 Power to apply for orders extinguishing right to use vehicles on highway.

(1) A local housing authority who have declared a renewal area may exercise the powers of a local planning authority under **[**[F194]sections 249 and 250 of the Town and Country Planning Act 1990**]** (extinguishment of right to use vehicles on certain highways) with respect to a highway in that area notwithstanding that they are not the local planning authority, but subject to the following provisions.

(2) The local housing authority shall not make an application under **[**[F195]subsection (2) or subsection (6) of section 249**]** (application to Secretary of State to make or revoke order extinguishing right to use vehicles) except with the consent of the local planning authority.

(3) If the local housing authority are not also the highway authority, any such application made by them shall in the first place be sent to the highway authority who shall transmit it to the Secretary of State.

(4) Where an order under **[**[F196]subsection (2) of section 249**]** (order extinguishing right to use vehicles) has been made on an application made by a local housing authority by virtue of this section, any compensation under **[**[F196]subsection (1) of section 250**]** (compensation for loss of access to highway) is payable by them instead of by the local planning authority.

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Textual Amendments

F194 Words substituted by Planning (Consequential Provisions) Act1990 (c. 11, SIF 123: 1, 2), s. 4, Sch. 2 para. 84(a)

F195 Words substituted by Planning (Consequential Provisions) Act1990 (c. 11, SIF 123: 1, 2), s. 4, Sch. 2 para. 84(b)

F196 Words substituted by Planning (Consequential Provisions) Act1990 (c. 11, SIF 123: 1, 2), s. 4, Sch. 2 para. 84(c)

95 Exclusion of land from, or termination of, renewal area.

(1) Subject to subsection (2) below, a local housing authority may by resolution—

(a) exclude land from a renewal area; or

(b) declare that an area shall cease to be a renewal area;

and as soon as may be after passing such a resolution the authority shall take the steps required by **[**F197subsection (5)**]** below.

[F198(2) Before exercising any power under subsection (1) above, an authority shall take such steps as appear to the authority best designed to secure—

(a) that the proposed exclusion or cessation, as the case may be, is brought to the attention of persons residing or owning property in the area; and

(b) that those persons are informed of the name and address of the person to whom should be addressed representations concerning the proposed exclusion or cessation.**]**

(3) F199. . . . . .

(4) F199. . . . . .

(5) The authority shall take such F200. . . steps as appear to them best designed to secure that the resolution is brought to the attention of persons residing or owning property in the renewal area.

(6) A resolution under subsection (1) above has effect from the day on which it is passed.

(7) A resolution under subsection (1) above does not affect the continued operation of the provisions of this Part, or any other enactment relating to renewal areas, in relation to works begun before the date on which the exclusion or cessation takes effect; but the resolution does have effect with respect to works which have not been begun before that date, notwithstanding that expenditure in respect of the works has been approved before that date.

Textual Amendments

F197 Words in s. 95(1) substituted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 6(2)** (with art. 14(2))

F198 S. 95(2) substituted (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), **Sch. 5 para. 6(3)** (with art. 14(2))

F199 S. 95(3)(4) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 6(4)**, **Sch. 6** (with art. 14(2))

F200 Word in s. 95(5) repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 6(5)**, **Sch. 6** (with art. 14(2))

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96 Contributions by the Secretary of State.

(1) The Secretary of State may pay contributions to local housing authorities towards such expenditure incurred by them under this Part as he may determine.

(2) The rate or rates of the contributions, the calculation of the expenditureto which they relate and the manner of their payment shall be such as may be determined by the Secretary of State with the consent of the Treasury; and any determination under this subsection or subsection (1) above may be made generally, or with respect to a particular local housing authority ordescription of authority, including a description framed by reference to authorities in a particular area.

(3) Contributions under this section shall be payable subject to such conditions as to records, certificates, audit or otherwise as the Secretary of State may, with the approval of the Treasury, impose.

(4) If, before the declaration of a renewal area, a local housing authority are satisfied that the rate of contributions which, in accordance with a determination under subsection (2) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for contributions at a higher rate in respect of that area.

(5) An application under subsection (4) above shall be made in such form and shall contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.

(6) If an application under subsection (4) above is approved, the Secretary of State may pay contributions under subsection (1) above in respect of the area concerned at such higher rate as he may determine under subsection (2)above.

Modifications etc. (not altering text)
C93 S. 96 amended (28.11.1994) by S.I. 1994/2825, **reg. 54**

97 Powers of entry and penalty for obstruction.

(1) A person authorised by the local housing authority or the Secretary of State may at any reasonable time, on giving not less than seven days' notice of his intention to the occupier, and to the owner if the owner is known, enter premises—

(a) for the purpose of survey and examination where it appears to the authority or the Secretary of State that survey or examination is necessary in order to determine whether any powers under this Part should be exercised;or

(b) for the purpose of survey or valuation where the authority are authorised by this Part to acquire the premises compulsorily.

(2) An authorisation for the purposes of this section—

(a) shall be in writing stating the particular purpose or purposes for which the entry is authorised; and

(b) shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf.

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(3) It is a summary offence intentionally to obstruct an officer of the local housing authority or of the Secretary of State, or a person authorised to enter premises under subsection (1) above, in the performance of anything which that officer, authority or person is by this Part required or authorised to do.

(4) A person who commits an offence under subsection (3) above is liable on conviction to a fine not exceeding level 3 on the standard scale.

(5) In this section "owner", in relation to premises,—

(a) means a person (other than a mortgagee not in possession) who is for the time being entitled to dispose of the fee simple in the premises, whether in possession or reversion, and

(b) includes also a person holding or entitled to the rents and profits of the premises under a lease of which the unexpired term exceeds three years.

98 Part VIII of Housing Act 1985.

(1) The provisions of this Part have effect in place of Part VIII of the [M120]Housing Act 1985 (housing action areas and general improvement areas) and, accordingly, after the appointed day, a local housing authority shall no longer have power under that Part to declare an area a housing action area or a general improvement area.

(2) If, apart from this subsection, a general improvement area would remainin existence on the first anniversary of the appointed day, the area shall, by virtue of this section cease to be a general improvement area on that first anniversary.

(3) In any case where, immediately before the appointed day, the period for which a housing action area has effect exceeds two years, the duration of that area shall, by virtue of this section, be such that, subject to subsection (4) below, it ends on the first anniversary of the appointed day.

(4) Nothing in subsection (3) above affects the power of a local housing authority,—

(a) by resolution under section 250(1)(b) of the Housing Act 1985, to bring a housing action area to an end; or

(b) by resolution under section 251 of that Act, to extend, on one occasion only, the duration of a housing action area by a period of two years.

(5) In the application of section 245 of the Housing Act 1985 (contributions by Secretary of State towards expenditure of local housing authorities relating to environmental works in housing action areas) in relation to expenditure—

(a) which was incurred on or after 14th June 1989, and

(b) in respect of which no contribution under that section was paid before the appointed day,

for subsection (2) of that section there shall be substituted the following subsection—

"(2) In the case of any expenditure, the contribution—

(a) shall be equal to one-half of the amount of the expenditure; and

(b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine."

(6) In the application of section 259 of the Housing Act 1985 (contributions by Secretary of State towards expenditure of local housing authorities relating to general improvement areas) in relation to expenditure—

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(a) which was incurred on or after 14th June 1989, and

(b) in respect of which no contribution under that section was paid before the appointed day,

for subsection (2) of that section there shall be substituted the following subsection—

"(2) In the case of any expenditure, the contribution—

(a) shall be equal to one-half of the amount of the expenditure; and

(b) shall be payable in one sum or by two or more instalments, according as the Secretary of State may determine."

(7) In the preceding provisions of this section "the appointed day" means the day appointed for the coming into force of this section.

Marginal Citations

M120 1985 c. 68.

99 Directions and guidance.

Any power under this Part to give [F201]. . . guidance may be so exercised as to make different provision for different cases, different descriptions of cases and different areas and, in particular, with respect to different local housing authorities or descriptions of authority (including a description framed by reference to authorities in a particular area).

Textual Amendments

F201 Words in s. 99 repealed (19.7.2002) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), arts. 1, 14(1), 15, **Sch. 5 para. 7**, **Sch. 6** (with art. 14(2))

100 Interpretation of Part VII.

(1) In this Part, except where the context otherwise requires,—

"dwelling" means a building or part of a building occupied or intended to be occupied as a separate dwelling, together with any yard, garden, outhouses and appurtenances belonging to or usually enjoyed with it;

"house in multiple occupation" has the same meaning as in Part XI of the [M121]Housing Act 1985, except that it does not include any part of such a house which is occupied as a separate dwelling by persons who do form a single household;

"housing accommodation" means dwellings, houses in multiple occupation and hostels;

"local housing authority" and any reference to the district of such an authority shall be construed in accordance with sections 1 and 2 of the Housing Act 1985.

(2) Part XVII of the Housing Act 1985 (compulsory purchase and land compensation) applies in relation to this Part as if it were contained in that Act.

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Marginal Citations

M121 1985 c. 68.

F202 PART VIII

Textual Amendments

F202 Pt. VIII (ss. 101-138) repealed (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (with transitional provisions in arts. 5, 8)

Modifications etc. (not altering text)

C94 Pt. VIII (ss. 101-138) excluded (17.12.1996) by 1996 c. 53, **s. 102(1)(2)**; S.I. 1996/2842, **art. 3**

Introductory

Preliminary conditions

Restrictions on grant aid

Approvals, notification and payment

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Conditions of grants and repayments

Group repair schemes

Minor works

Supplementary provisions

PART IX

MISCELLANEOUS AND GENERAL

Local Government Finance Act 1988, local finance (Scotland) and block grants

139 Local Government Finance Act 1988: amendments.

Schedule 5 to this Act (which amends the [M144]Local Government Finance Act 1988) shall have effect.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Marginal Citations
M144 1988 c. 41.

F216 140 F216 Scottish non-domestic rates: interim provisions.

. . . . . .

Textual Amendments
F216 S. 140 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(d)**,Sch.

F217 141 . . . . . .

Textual Amendments
F217 S. 141 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(d)**,Sch.

142 Powers to vary incidence of standard community charge: Scotland.

In section 10 of the M145Abolition of Domestic Rates Etc. (Scotland) Act 1987 (liability for and calculation of standard community charge) for subsections (6) and (7) there shall be substituted the following subsections—

"(6) The standard community charge due to a local authority in respect of any premises in respect of any financial year shall be the product of the personal community charge determined in respect of that year by the local authority and—

(a) where the premises are in a specified class, the standard community charge multiplier determined in respect of that class by the authority; or

(b) where the premises are not in a specified class, the standard community charge multiplier determined by the authority in relation to such premises,

in respect of that year.

(7) A specified class is one which has been prescribed under this subsection or determined under regulations made under subsection (7F) below.

(7A) A local authority shall determine their standard community charge multiplier or multipliers before such date in each year as is prescribed.

(7B) A standard community charge multiplier must be one of the following, 0,½, 1, 1½, 2.

(7C) A local authority may resolve that different standard community charge multipliers shall apply in relation to different classes of premises prescribed under subsection (7) above.

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(7D) A standard community charge multiplier relating to a class of premises prescribed under subsection (7) above shall not exceed such maximum multiplier as may be prescribed in relation to that class.

(7E) In prescribing classes under subsection (7) above, the Secretary of State may classify premises by reference to such factors as he thinks fit, including, without prejudice to that generality—

(a) the physical characteristics of premises or any part of them;

(b) the fact that premises are, or any part of them is, unoccupied;

(c) the fact that premises are, or any part of them is, occupied for prescribed purposes;

(d) the fact that premises are, or any part of them is, occupied by personsof prescribed descriptions;

(e) the circumstances of persons liable to pay the standard community charge.

(7F) The Secretary of State may, by regulations, make provision—

(a) enabling local authorities or local authorities of such class or classes as he may specify in the regulations—

(i) to determine, in relation to their areas, classes of premises additional to those prescribed under subsection (7) above;

(ii) to determine different such classes of premises in relation to different parts of their areas; and

(iii) to resolve that different standard community charge multipliers shall apply in relation to different classes of premises determined under the regulations, and

(b) requiring them, when determining a class or classes under the regulations, to classify premises only by reference to one or more prescribed factors being such factors as the Secretary of State thinks fit.

(7G) Regulations under subsection (7F) above may make provision enabling the district council to resolve that different standard community charge multipliers shall apply in relation to such different classes of premises as have, in relation to the district, been determined under the regulations by the council of the region in which the district is situated.

(7H) A regional council may resolve that different standard community charge multipliers shall apply in relation to the same specified class of premises in different districts within the region."

Marginal Citations
M145 1987 c. 47.

143 Reduced liability for personal community charges: Scotland.

—The following section shall be inserted after section 9 of the [M146]Abolition of Domestic Rates Etc. (Scotland) Act 1987—

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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"**9A Reduced liability for personal community charge.**

(1) The Secretary of State may make regulations as regards any case where—

(a) a person is or was liable to pay, in respect of any time in such financial year as is prescribed, the personal community charge determined by a local authority in respect of that year; and

(b) prescribed conditions are fulfilled.

(2) Regulations under this section may provide that the amount of a person's liability in respect of personal community charge shall not be such amount as it would be apart from the regulations or, as the case may be, such amount as it was, but instead such smaller amount as is arrived at in accordance with prescribed rules.

(3) The conditions mentioned in subsection (1) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the following—

(a) rates for a period before 1 April 1989;

(b) the circumstances of or other matters relating to the person concerned;

(c) an amount relating to the local authority concerned and specified, or to be specified, for the purposes of the regulations in a report laid, or to be laid, before the House of Commons;

(d) such other amounts as may be prescribed or arrived at in a prescribed manner;

(e) the making of an application by the person concerned.

(4) The rules mentioned in subsection (2) above may be prescribed by reference to such factors as the Secretary of State sees fit; and in particular such factors may include all or any of the factors mentioned in subsection (3)(a)to (d) above.

(5) Without prejudice to the generality of section 31(2) of this Act, regulations under this section may include—

(a) provision requiring the Secretary of State to specify in a report, for the purposes of the regulations, an amount in relation to each local authority;

(b) provision requiring him to lay the report before the House of Commons;

(c) provision for the review of any prescribed decision of a local authority relating to the application or operation of the regulations.

(6) To the extent that he would not have power to do so apart from this subsection, the Secretary of State may—

(a) include in regulations under this section such amendments of any social security instrument as he thinks expedient in consequence of the regulations under this section;

(b) include in any social security instrument such provision as he thinks expedient in consequence of regulations under this section.

and any such amendments or provision may be deemed by the regulations or, as the case may be, instrument to have come into effect prior to the date of coming into force of the regulations or instrument.

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(7) In subsection (6) above "social security instrument" means an order or regulations made, or falling to be made, by the Secretary of State under the Social Security Act 1986."

Marginal Citations
M146 1987 c. 47.

144 Community charge grants: Scotland.

The following section shall be inserted after section 23 of the [M147]Abolition of Domestic Rates Etc. (Scotland) Act 1987—

"**PART IIIA**

COMMUNITY CHARGE GRANTS

23A Community charge grants.

(1) If regulations under section 9A have effect in respect of a financial year, the Secretary of State may, with the consent of the Treasury, pay agrant to a local authority in respect of that year.

(2) The amount of the grant shall be such as the Secretary of State may, with the consent of the Treasury, determine.

(3) A grant under this section shall be paid at such time, or in instalments of such amounts and at such times, as the Secretary of State may, with the consent of the Treasury, determine.

(4) In making any payment of grant under this section the Secretary of State may impose such conditions as he may, with the consent of the Treasury, determine; and the conditions may relate to the repayment in specified circumstances of all or part of the amount paid, or otherwise.

(5) In deciding whether to pay a grant under this section, and in determining the amount of any such grant, the Secretary of State shall have regard to his estimate of the aggregate of—

(c) any amount which, in consequence of the regulations, the local authority might reasonably be expected to lose, or to have lost, by way of payments in respect of community charges in respect of the financial year concerned; and

(d) any administrative expenses the local authority might reasonably be expected to incur, or to have incurred, in respect of the financial year in giving effect to the regulations."

Marginal Citations
M147 1987c. 47.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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145 Amendment of Abolition of Domestic Rates Etc. (Scotland) Act 1987 andother enactments: Scotland.

Schedule 6 to this Act (which amends the [M148]Abolition of Domestic Rates Etc. (Scotland) Act 1987 and other enactments) shall have effect.

Marginal Citations
M148 1987 c. 47.

[F218]146 . . . . . .

Textual Amendments
F218 S. 146 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454 art.3 (with saving in art. 4) and subject to an amendment (28.11.1194) by S.I. 1994/2825, **reg. 40**

147 Adjustment of block grant.

(1) This section applies for any year in relation to which, immediately before the passing of this Act, the obligation imposed on the Secretary of State by the paragraph 5 pooling provisions to as certain the actual amount of the increases and decreases of block grant to be made for the year in accordance with those provisions had not yet arisen.

(2) As soon as is reasonably practicable after the passing of this Act the Secretary of State shall ascertain, for a year for which this section applies, the amount of the increases and decreases of block grant which ought to be made in accordance with the paragraph 5 pooling provisions.

(3) Subsection (4), subsection (5) or subsection (6) below (as the case maybe) applies where, for the purpose of so ascertaining, the Secretary of State needs to find the amount of a local authority's expenditure in relation to the year or the amount of any part of that expenditure.

(4) Where the year begins in 1987 or before, he shall find the amount concerned by reference to—

(a) figures which relate to the authority's actual expenditure incurred for the year and which were received by him before the relevant date, or

(b) if no such figures were received by him before that date, any other information in his possession on that date about the expenditure incurred by the authority for the year.

(5) Where the year begins in 1988, he shall find the amount concerned by reference to any information in his possession on the relevant date about the expenditure incurred and likely to be incurred by the authority for the year.

(6) Where the year begins in 1989, he shall find the amount concerned by reference to any information in his possession on the relevant date about the expenditure likely to be incurred by the authority for the year.

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(7) Where the year begins in 1988, and the amount concerned is the amount of the authority's relevant education expenditure for the year, he shall find the amount by reference to—

(a) audited accounts which relate to that expenditure, which are in such form as the Secretary of State may specify and which were received by him before the second relevant date; or

(b) if no such accounts were received by him before the second relevant date, any information in his possession on the relevant date about that expenditure;

and subsection (5) above shall have effect subject to the preceding provisions of this subsection.

(8) In making payments of block grant after the passing of this Act, the Secretary of State shall adjust amounts paid so as to take account, so far as practicable, of increases and decreases ascertained under subsection (2)above.

(9) As regards anything done after the passing of this Act for a year for which this section applies, the paragraph 5 pooling provisions shall have effect—

(a) with the omission of paragraph 5(2) of Schedule 10 to the 1980 Act, and

(b) with such other modifications as result from this section.

(10) In this section—

"local authority", in relation to any year, means any body which for that year is a local authority for the purposes of Part VI of the1980 Act;

"the 1980 Act" means the [M149]Local Government, Planning and Land Act 1980;

"the paragraph 5 pooling provisions" means paragraph 5 of Schedule 10 to the 1980 Act and regulations made under that paragraph (adjustment of block grant);

"the relevant date" means 1st February 1989 and "the second relevant date" means 1st October 1989;

"year" means a period of twelve months beginning with 1st April.

(11) For the purposes of this section an authority's relevant education expenditure for the year beginning in 1988 is its expenditure which—

(a) was incurred in the year, and

(b) was incurred by way of payments falling within regulation 3(3)(d) or (e)of the [M150]Block Grant (Education Adjustments) (England) Regulations 1987.

Marginal Citations

M149 1980 c. 65.

M150 S.I. 1987/347.

148 Rate support grant, 1985/86.

The Rate Support Grant Supplementary Report (England) (No. 4) 1985/86 (which was approved by a resolution of the House of Commons on 19th January 1989) shall have effect, and be deemed always to have had effect, as if, in Annex VI (principles for calculating grant-related poundages), for the formula set out in paragraph 4 (grant-

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related poundages for total expenditure at or above the threshold level) there were substituted—

"

$$GRP = GRPatGRE + 0.69p \times thresholdamount$$

$$+0.8625p \times \left(\frac{totalexpenditure - GRE}{population} - thresholdamount \right)$$

."

149 Statutory references to rating.

(1) In the case of a provision which is made by or under any enactment and refers to a rate or a rateable value or any other factor connected with rating, the Secretary of State may make regulations—

(a) providing that the reference shall instead be to some other factor (whether or not connected with rating); or

(b) providing for the factor to be amended (whether by limiting its operation or in any other way);

and this section shall have effect in place of section 119 of the [M151]Local Government Finance Act 1988.

(2) Regulations under this section—

(a) may make provision in such manner as the Secretary of State thinks fit (whether by amending provisions or otherwise);

(b) may provide for a factor expressed by reference to valuation, rent, a premium, the length of a lease, anything connected with rating, or any other matter whatever;

(c) may provide for a factor expressed by reference to a combination of matters (whether expressed in terms of a formula or otherwise);

(d) may provide for a factor which includes a method of adjustment (whether by reference to indexation or otherwise);

(e) may make provision with respect to the resolution of disputes (whether by a court or otherwise); and

(f) may contain such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(3) A factor expressed by reference to rent may be by reference to ground rent, rent of premises at a market rate, rent as limited by law, or otherwise.

(4) Nothing in this section shall be construed as limiting the power conferred by section 14 of the [M152]Interpretation Act 1978 to revoke, amend or vary regulations previously made under this section.

(5) In this section "enactment" means an enactment contained in Schedule 10 to this Act, or in any other Act whether passed before or in the same Session as this Act; and for this purpose "Act" includes a private or local Act.

(6) Without prejudice to the generality of the powers conferred by this section, section 37 of the [M153]Landlord and Tenant Act 1954 (which provides for compensation by

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reference to rateable values) shall be amended in accordance with Schedule 7 to this Act.

Marginal Citations
M151 1988 c. 41.
M152 1978 c. 30.
M153 1954 c. 56.

Charges by certain authorities

150 Power to allow charges.

(1) The Secretary of State may make regulations providing that a charge may be imposed in respect of anything—
- (a) which is done by any relevant authority or by any relevant authority of a prescribed description,
- (b) which is prescribed or falls within a prescribed description,
- (c) in respect of which there is no power or duty to impose a charge apart from the regulations, and
- (d) which is not done in the course of exercising an excepted function.

(2) The regulations may include such provision as the Secretary of State sees fit as regards charges for which the regulations provide; and nothing in subsections (3) to (5) below or section 190(1) below is to prejudice this.

(3) The regulations—
- (a) may be made as regards services rendered, documents issued, or any other thing done by an authority (whether in pursuance of a power or a duty);
- (b) may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.

(4) Where the regulations provide that a charge may not exceed a maximum amount they may—
- (a) provide for one amount, or a scale of amounts to cover different prescribed cases;
- (b) prescribe, as regards any amount, a sum or a method of calculating the amount.

(5) The regulations may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(6) No regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament.

151 Power to amend provisions about charges.

(1) Subject to subsection (4) below, this section applies in the case of an existing provision to the extent that the provision allows (as opposed to requires) a charge to be imposed in respect of anything which is done by relevant authorities (or any of them) and which is not done in the course of exercising an excepted function.

(2) The Secretary of State may make regulations—

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(a) repealing the provision concerned to the extent that it so provides,

(b) amending the provision to that extent, or

(c) repealing the provision to that extent and replacing it with new provisions;

and subsection (6) of section 150 above applies in relation to regulations under this section as it applies in relation to regulations under that section.

(3) For the purposes of subsection (1) above—

(a) the charge may be expressed in terms of making a charge, paying a fee, or otherwise;

(b) the charge may relate to services rendered, documents issued, or any other thing done by a relevant authority (whether in pursuance of a power or a duty).

(4) A charge does not fall within subsection (1) above if—

(a) it is one whose proceeds fall (or part of whose proceeds falls) to be paid into the Consolidated Fund; **[**F219or

(b) it is a charge amounting to local taxation.**]**

(5) Regulations under subsection (2) above may not require the imposition of a charge; and subsection (6) below shall have effect subject to this.

(6) The regulations may include such provision as the Secretary of State sees fit as regards charges; and nothing in subsections (7) to (9) below or section 190(1) below is to prejudice this.

(7) The regulations may provide that the amount of a charge (if imposed) is to be at the authority's discretion or to be at its discretion subject to a maximum.

(8) Where the regulations provide that a charge may not exceed a maximum amount they may—

(a) provide for one amount, or a scale of amounts to cover different prescribed cases;

(b) prescribe, as regards any amount, a sum or a method of calculating the amount.

(9) The regulations—

(a) may confer discretion as to the amount in a case where an existing provision confers none (or vice versa);

(b) may, in a case where an existing provision confers a discretion as to the amount, confer a different one; and

(c) may include such supplementary, incidental, consequential or transitional provisions as appear to the Secretary of State to be necessary or expedient.

(10) For the purposes of this section an existing provision is a provision of an Act passed before, or in the same Session as, this Act.

(11) In this section "Act" includes a private or local Act.

Textual Amendments

F219 S. 151(4)(b) and word substituted (S.) (1.4.1996) for s. 151(4)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(10)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

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Modifications etc. (not altering text)

C98 S. 151 extended (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 11** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
S. 151 amended (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 87(6), **Sch. 14 para. 7** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

152 Interpretation, consultation and commencement of ss. 150 and 151.

(1) For the purposes of sections 150 and 151 above the following are excepted functions—

(a) functions relating to education in schools;

(b) functions relating to the provision of a public library service;

(c) functions relating to fire fighting, that is to say, the extinction of fire and the protection of life and property in case of fire;

(d) functions relating to the registration of electors;

(e) functions relating to the conduct of elections;

F220(f) . . . . . .

(2) For the purposes of those sections in their application to England and Wales, each of the following is a relevant authority—

(a) a county council;

[F221(aa) a county borough council;**]**

(b) a district council;

(c) a London borough council;

(d) the Common Council of the City of London;

(e) the Council of the Isles of Scilly;

(f) a fire authority constituted by a combination scheme under the M154Fire Services Act 1947;

F222(g) . . . . . .

(h) an authority established under section 10 of the M155Local Government Act 1985 (waste disposal authorities);

(i) a joint authority established by Part IV of that Act (F223. . . fire services, civil defence and transport);

(j) an authority or board constituted a port health authority at any time by an order under section 2 of the M156Public Health (Control of Disease) Act 1984;

[F224(ja) a National Park authority**]**

[F225(jb) a conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000;**]**

(k) . . . . . .

(l) the Broads Authority. **[**F226. . .**]**

[F227(m) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the M157Town and Country Planning Act 1990.**]**

[F228(n) the London Fire and Emergency Planning Authority.**]**

(3) For the purposes of those sections in their application to Scotland, each of the following is a relevant authority—

[F229(a) a council constituted under section 2 of the Local Goverment etc. (Scotland) Act 1994**]**

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(d) a port local authority or joint port local authority constituted under section 172 of the [M158]Public Health (Scotland) Act 1897, **[**[F230]and

(e) a joint board or joint committee within the meaning of section 235(1) of the Local Government (Scotland) Act 1973.**]**

(4) The Secretary of State may by order made by statutory instrument provide for any other body to be, or for a body to cease to be, a relevant authority for the purposes of those sections; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(5) In those sections "prescribed" means prescribed by the regulations concerned.

(6) Before exercising any power to make regulations under section 150 or section 151 above, the Secretary of State shall consult—

(a) as respects England and Wales, such representatives of local government,and

(b) as respects Scotland, such associations of local authorities,

as appear to him to be appropriate.

(7) This section and sections 150 and 151 above shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Textual Amendments

F220 S. 152(1)(f) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. 1 para. 41, **Sch. 9 Pt. 1**; S.I. 1994/3262, **art. 4 Sch.** (subject to transitional provisions in art. 5(2)-(8))

F221 S. 152(2)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(7)**

F222 S. 152(2)(g) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. 1 para. 41, **Sch. 9 Pt. 1**; S.I. 1994/3262, **art. 4 Sch.** (subject to transitional provision in art. 5(2)-(8))

F223 Words in s. 152(2)(i) repealed (1.4.1995) by 1994 c. 29, ss. 43, 93, Sch. 4 Pt. I para. 41, **Sch. 9 Pt. I**; S.I. 1994/3262, **art. 4 Sch.** (subject to transitional provision in art. 5(2)-(8))

F224 S. 152(2)(ja) inserted (19.9.1995) by 1995 c. 25, ss. 65(7), 125(2), **Sch. 8 para. 11** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

F225 S. 152(2)(jb) inserted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 87(6), **Sch. 14 para. 7** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

F226 S. 152(2)(l) word repealed (3.7.2000) by 1999 c. 29, s. 423, **Sch. 34 Pt. 8** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4(i)**

F227 S. 152(2)(m) and word "and" immediately preceding it inserted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

F228 S. 152((2)(n) inserted (3.7.2000) by 1999 c. 29, s. 328(8), Sch. 29 Pt. I para. 56 (with **Sch. 12 para. 9(1)**); S.I. 2000/1094, **art. 4(h)**

F229 S. 152(3)(a) substituted (1.4.1996) for paras. (a)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(11)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

F230 S. 152(3)(e) and the word "and" immediately preceding it substituted (1.4.1996) for paras. (e)(f) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(11)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

M154 1947c. 41.

M155 1985 c. 51.

M156 1984 c. 22.

M157 1990 c. 8.

M158 1897 c. 38.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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153 Charges: temporary traffic signs.

(1) In section 65 of the [M159]Road Traffic Regulation Act 1984 (powers and duties of highways authorities and roads authorities as to placing of traffic signs) after subsection (3) there shall be inserted the following subsection—

"(3A) No charge may be made—

(a) in England and Wales, by a highway authority which is the council of acounty, metropolitan district or London borough or the Common Council of the City of London, or

(b) in Scotland, by a local roads authority,

with respect to the exercise of their power under subsection (1) above to permit a traffic sign to be placed on or near any road in their area if—

(i) the sign conveys information of a temporary nature or is otherwise intended to be placed only temporarily; and

(ii) the sign is to be placed by a body which is prescribed for the purposes of this subsection as being a body appearing to the Secretary of State to be representative of the interests of road users or any class of road users."

(2) Subsection (1) above does not apply in any case where, before this section comes into force, the payment of a charge has been agreed.

Marginal Citations
M159 1984 c. 27.

154 Charges: library services.

(1) For subsections (2) to (5) of section 8 of the [M160]Public Libraries and Museums Act 1964 (exceptions to restrictions on charging for library facilities) there shall be substituted the following subsections—

"(2) Subject to subsections (3) and (4) below, the Minister may by regulations—

(a) authorise library authorities to make charges for such library facilities made available by them as may be specified in the regulations; and

(b) make such provision as regards charges by library authorities for library facilities, other than provision requiring the making of charges, as he thinks fit.

(3) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for lending any written material to any person where—

(a) it is the duty of the authority under section 7(1) above to make facilities for borrowing available to that person;

(b) the material is lent in the course of providing such facilities to that person on any library premises;

(c) the material is lent in a form in which it is readable without the use ofany electronic or other apparatus; and

(d) that person is not a person who has required any such apparatus to be used, or made available to him, for putting the material into such a form in order that he may borrow it;

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but this subsection shall not prevent any regulations under this section from authorising the making of charges in respect of the use of any facility for the reservation of written materials or in respect of borrowed materials which are returned late or in a damaged condition.

(4) Nothing in any regulations under this section shall authorise any charges to be made by a library authority for making facilities available for any person to do any of the following on any library premises, that is to say—

(a) reading the whole or any part of any of the written materials for the time being held by the authority in a form in which they are readable without the use of any electronic or other apparatus or in microform;

(b) consulting (whether or not with the assistance of any such apparatus or of any person) such catalogues, indexes or similar articles as are maintained, in any form whatever, exclusively for the purposes of that authority's public library service.

(5) Without prejudice to the generality of subsection (2) above, the power to make regulations under this section shall include power—

(a) to confer a discretion as to the amount of any charge made under theregulations;

(b) to provide for such a discretion to be exercisable subject to such maximum amount or scale of maximum amounts as may be specified in or determined under the regulations;

(c) to require library authorities to take such steps as may be specified or described in the regulations for making the amounts of their charges for library facilities known to the public;

(d) to make such other incidental provision and such supplemental, consequential and transitional provision as the Minister thinks necessary or expedient; and

(e) to make different provision for different cases, including different provision in relation to different persons, circumstances or localities.

(5A) The power to make regulations under this section shall be exercisable by statutory instrument; and no regulations may be made under this section unless a draft of them has been laid before and approved by a resolution of each House of Parliament."

(2) After subsection (6) of that section there shall be inserted the following subsection—

"(7) In this section—

"library premises" means—

(a) any premises which are occupied by a library authority and are premises where library facilities are made available by the authority, in the course of their provision of a public library service, to members of the public;

(b) any vehicle which is used by a library authority for the purpose of providing such a service and is a vehicle in which facilities are so made available;

"the Minister" means—

(a) in relation to library authorities whose areas are in England, the Lord President of the Council; and

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(b) in relation to library authorities whose areas are in Wales, the Secretary of State;

and

"written material" means—

(a) any book, journal, pamphlet or other similar article; or

(b) any reprographic copy (within the meaning of the Copyright, Designs and Patents Act 1988) of any article falling within paragraph (a) above or any other reproduction of such an article made by any means whatever."

(3) This section shall come into force on such day as the Lord President of the Council and the Secretary of State, acting jointly, may by order made by statutory instrument appoint; and different days may be so appointed for different provisions or for different purposes.

Commencement Information

I8 S. 154 wholly in force at 01. 01. 1992 see S.I. 1991/2940, art. 2

Marginal Citations

M160 1964 c. 75.

Miscellaneous local government provisions

155 Emergency financial assistance to local authorities.

(1) In any case where—

(a) an emergency or disaster occurs involving destruction of or danger to life or property, and

(b) as a result, one or more local authorities incur expenditure on, or inconnection with, the taking of immediate action (whether by the carrying out of works or otherwise) to safeguard life or property, or to prevent suffering or severe inconvenience, in their area or among its inhabitants,

the Secretary of State may establish a scheme under this section for the giving of financial assistance to those authorities in respect of that expenditure.

[[F231](1A) Expenditure incurred as mentioned in subsection (1) above by—

(a) the London Fire and Emergency Planning Authority,

(b) the Metropolitan Police Authority, or

(c) Transport for London, in respect of places or areas within Greater London,

shall be treated for the purposes of this section as expenditure so incurred by the Greater London Authority (and, accordingly, as so incurred by a local authority).

(1B) To the extent that any financial assistance given to the Greater London Authority under this section is referable to expenditure incurred by a body mentioned in paragraph (a), (b) or (c) of subsection (1A) above, the financial assistance shall be treated for the purposes of section 103 of the Greater London Authority Act 1999 as a payment made to the Greater London Authority for the purposes of that body.**]**

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(2) Financial assistance given pursuant to a scheme under this section shall take the form of grants paid by the Secretary of State with the consent of theTreasury and, subject to that, the terms and conditions of a scheme shall be such as the Secretary of State considers appropriate to the circumstances of the particular emergency or disaster concerned.

(3) Without prejudice to the generality of subsection (2) above, a scheme under this section may—

(a) make the payment of grants conditional upon the making of claims of a description specified in the scheme;

(b) make provision with respect to the expenditure qualifying for grant and the rates and amounts of grants;

(c) make provision in certain specified circumstances for the repayment of any grant, in whole or in part; and

(d) make different provision for different local authorities or descriptions of authority and for different areas.

(4) In the application of this section to England and Wales, any reference to a local authority is a reference to—

(a) a county council;

[F232(aa) a county borough council;**]**

(b) a district council;

[F233(bb) the Greater London Authority;**]**

(c) a London borough council;

(d) the Common Council of the City of London;

(e) the Council of the Isles of Scilly;

[F234(ea) a police authority established under section **[**F2353 of the M161Police Act 1996**]**; **[**F236or**]]**

(eb) F237 . . . . . .

[F238(f) the Receiver for the Metropolitan Police District; or**]**

(g) a joint authority established by Part IV of the M162Local Government Act 1985, other than a metropolitan county passenger transport authority.

(5) In the application of this section to Scotland, any reference to a local authority is a reference to

[F239a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**

F240. . .a joint board or joint committee within the meaning of the M163Local Government (Scotland) Act 1973.

(6) The reference in subsection (1)(b) above to expenditure incurred by a local authority includes, in the case of an authority in England and Wales, expenditure incurred in defraying, or contributing towards defraying, expenditure incurred by a parish or community council.

(7) This section shall come into force on 1st April 1990.

Textual Amendments

F231 S. 155(1A)(1B) inserted (3.7.2000) by 1999 c. 29, **s. 104(1)(2)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**

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F232 S. 155(4)(aa) inserted (7.1.1997) by S.I. 1996/3071, **art. 2 Sch. para. 3(8)**
F233 S. 155(4)(bb) inserted (3.7.2000) by 1999 c. 29, **s. 104(1)(3)(a)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
F234 S. 155(4)(ea) inserted (1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 para. 42**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
F235 Words in s. 155(4)(ea) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104, **Sch. 7 Pt. I para. 1(2)(zd)**
F236 Word in s. 155(4)(ea) inserted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. II para. 53(a); S.I. 2002/344, **art. 3** (with transitional provisions in art. 4)
F237 S. 155(4)(eb) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. II para. 53(b), Sch. 7 Pt. V(1); S.I. 2002/344, **art. 3** (with transitional provisions in art. 4)
F238 S. 155(4)(f) ceased to have effect (3.7.2000) by virtue of 1999 c. 29, **s. 104(1)(3)(c)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **art. 4**
F239 S. 155(5) words substituted (1.4.1996) for paras. (a)(b)(c) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(12)(a)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**
F240 S. 155(5): letter "(d)" repealed (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(12)(b), **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**

Modifications etc. (not altering text)
C99 S. 155 amended (28.11.1994) by S.I. 1994/2825, **reg. 41**
S. 155 power to deal with matters of the kind dealt with in this part conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(iv); S.I. 1997/1930, **art. 2(m)**

Marginal Citations
M161 1996 c. 16.
M162 1985 c. 51.
M163 1973 c.65.

156 Contingency planning and co-ordination in respect of emergencies ordisasters.

(1) In section 138 of the [M164]Local Government Act 1972 (powers of principal councils with respect to emergencies or disasters) after subsection (1) there shall be inserted the following subsection—

"(1A) If a principal council are of the opinion that it is appropriate to undertake contingency planning to deal with a possible emergency or disaster which, if it occurred,—

(a) would involve destruction of or danger to life or property, and

(b) would be likely to affect the whole or part of their area,

they may incur such expenditure as they consider necessary on that planning (whether relating to a specific kind of such possible emergency or disaster or generally in relation to possible emergencies or disasters falling within paragraphs (a) and (b) above)."

(2) In subsection (3) of that section—

(a) for the words from the beginning to "authorise" there shall be substituted " Nothing in this section authorises "; and

(b) for the words "the power conferred by that subsection is" there shall be substituted " the powers conferred by subsections (1) and (1A) above are ".

(3) At the end of the section there shall be added the following subsections—

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"(5) With the consent of the Secretary of State, a metropolitan county fire and civil defence authority and the London Fire and Civil Defence Authority may incur expenditure in co-ordinating planning by principal councils in connection with their functions under subsection (1) above.

(6) In this section "contingency planning" means the making, keeping under review and revising of plans and the carrying out of training associated with the plans."

Marginal Citations
M164 1972 c. 70.

157 Commutation of, and interest on, periodic payments of grants etc.

(1) In any case where, by virtue of any enactment, the Secretary of State has a power or duty to make to a local authority any annual or other periodic payments by way of contribution, grant or subsidy towards expenditure incurred or to be incurred by the local authority, the Secretary of State—

(a) may determine to commute any such payments which would otherwise fall due on or after 1st April 1990 either into a single payment or into such number of payments (being less than would otherwise be payable) as he considers appropriate; and

(b) may, if he thinks it appropriate, pay to the Public Works Loans Commissioners the whole or any part of any single or other payment determined under paragraph (a) above so as to reduce or extinguish such debt (whether then due or not) of the local authority to those Commissioners as the Secretary of State thinks fit.

(2) The amount required to reduce or extinguish a debt as mentioned in paragraph (b) of subsection (1) above shall be such as may be determined by the Public Works Loans Commissioners and where, by virtue of that paragraph, only part of a commuted payment is paid to those Commissioners, the balance shall be paid to the local authority concerned.

(3) Subsection (1) above applies whether the annual or other periodic payments began, or would otherwise begin, before, on or after the passing of this Act and applies notwithstanding anything in any enactment requiring the paymentsto be made over a period of twenty years or any other specified period.

(4) A single or other payment falling to be made by virtue of subsection (1) above is in this section referred to as a "commuted payment" and the calculation of the amount of any commuted payment shall be such as appears to the Secretary of State to be appropriate.

(5) In any case where the amount of any annual or other periodic payment such as is mentioned in subsection (1) above is, at the passing of this Act, calculated by reference to a rate of interest which varies from time to time, the Secretary of State may substitute a fixed rate of interest.

(6) In this section "local authority", as respects England and Wales, means any of the following—

(a) a county council;

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[F241(aa) a county borough council;**]**

(b) a district council;

(c) a London borough council;

(d) the Common Council of the City of London;

(e) the Council of the Isles of Scilly;

(f) the Metropolitan Police Athority;

[F242(g) a police authority established under **[**F243section 3 of the M165Police Act 1996**]**;**]**

(ga) F244. . . . . .

(h) a joint authority established by Part IV of the M166Local Government Act 1985; and

(i) a residuary body established under Part VII of that Act;

and, as respects Scotland, means a **[**F245a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994**]**or a joint board or joint committee within the meaning of section 235(1) of the M167Local Government (Scotland) Act 1973.

(7) If, after a commuted payment has been made to a local authority or to the Public Works Loans Commissioners, it appears to the Secretary of State that the payment was smaller or greater than it should have been (whether by virtue of a miscalculation, the occurrence of any event, the failure to comply with any condition or otherwise) the Secretary of State may, as the case may require,—

(a) make a further payment to the authority concerned or to those Commissioners; or

(b) require the repayment or payment to him by that authority of such sum as he may direct.

(8) Without prejudice to the operation of the preceding provisions of this section, with respect to—

(a) any contribution in respect of an expense incurred on or after 1st April 1990; and

[F246(b) so much of any contributions in respect of an expense incurred on or after 1st April 1989 and before 1st April 1990 as have not been made before 1st April 1990**]**

section 569 of the M168Housing Act 1985 (contribution by Secretary of State to certain expenses incurred by local housing authorities) shall be amended as follows -

(i) in subsection (2) (which relates to contributions as annual payments) for the words following "shall be" there shall be substituted the words " equal to the relevant percentage of the amount of the expense incurred ";and

(ii) subsection (5) (which relates to annual loan charges) shall cease to have effect.

(9) Without prejudice to the generality of section 230 of the M169Local Government Act M1701972 or section 235(1) of the Local Government (Scotland) Act 1973 (local authorities' duty to make reports and returns to the Secretary of State), every local authority and the Inner London Education Authority shall furnish to the Secretary of State such information as he may by notice in writing reasonably require for the purposes of this section and, if the notice so specifies, any such information shall be certified and audited in such manner and supplied not later than such dateand in such form as may be so specified.

(10) Nothing in this section applies in relation to any payments to which, under Part IV of Schedule 15 to the Housing Act 1985 (superseded contributions etc.: town development subsidy), provision already exists for the commutation of payments.

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Textual Amendments

F241 S. 157(6)(aa) inserted (7.1.1997) by S.I. 1997/3071, art. 2, **Sch. para. 3(9)**

F242 S. 157(6)(g) substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 43**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

F243 Words in s. 157(6)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103, 104(1), **Sch. 7 Pt. 1 para. 1(2)(zd)**

F244 S. 157(6)(ga) repealed (1.4.2002) by 2001 c. 16, ss. 128(1), 137, Sch. 6 Pt. 2 para. 54, Sch. 7 Pt. 5; S.I. 2002/344, **art. 3** (with transitional provision in art. 4)

F245 Words in s. 157(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(13)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

F246 S. 157(8)(b) substituted (E.W.) (*retrospective* to 1.1.1993) by 1993 c. 28, **s. 138(1)(2)**

Modifications etc. (not altering text)

C100 S. 157 amended (28.11.1994) by S.I. 1994/2825, **reg. 42(1)(a)**
S. 157 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(n)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
S. 157 power to apply conferred (1.9.1997) by 1997 c. 50, s. 44(1), **Sch. 4** para. (j)(v); S.I. 1997/1930, **art. 2(m)**

C101 S. 157(1) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(a)**

C102 S. 157(1)(b) amended (28.11.1994) by S.I. 1994/2825, **reg. 42(3)(b)**

Marginal Citations

M165 1996 c. 16.

M166 1985 c. 51.

M167 1973 c. 65.

M168 1985 c. 68.

M169 1972 c.70.

M170 1973 c. 65.

158 Electronic transfer of documents.

(1) In subsection (2) of section 9 of the [M171]Local Land Charges Act 1975, the words "A requisition under this section must be in writing, and" shall be omitted.

(2) In subsection (2) of section 14 of that Act after the word "include" there shall be inserted " (a) ", and at the end of that subsection there shall be inserted the following paragraphs—

"(b) power to make rules providing for the use of electronic means in the making of requisitions for, and in the issue of, official search certificates, notwithstanding subsection (3) of section 231 of the Local Government Act 1972 (service of documents on local authorities) provided that—

(i) such rules shall not provide that a requisition is duly made by electronic means, except where the local authority to whom it is made consents to the useof those means, or that an official search certificate is duly issued by electronic means, except where the person requiring the search consents to the use of those means; and

(ii) such consent may be given either generally or in relation to a specified document or description of documents, and either

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before or after the making of the requisition or the issue of the certificate; and

(c) power to make rules modifying the application of sections 10 and 11 abovein cases where—

(i) the rules provide for the making of a requisition for, or the issuing of,an official search certificate by electronic means, and

(ii) there has been any error or failure in those means."

Marginal Citations
M171 1975 c. 76.

159 Prevention of continuance or recurrence of default of local authority: Scotland.

(1) Section 211 of the [M172]Local Government (Scotland) Act1973 (provision for default of local authority) shall be amended in accordance with this section.

(2) After subsection (2) there shall be inserted the following subsections—

"(2A) If the Secretary of State or appropriate Minister—

(a) is about to make an order under subsection (2) above; and

(b) is satisfied that the failure to which the order relates has continued or recurred,

he may, in that order and without any local inquiry, declare theauthority to be in default in respect of the continuance or recurrence of the failure and direct them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(2B) The Secretary of State or appropriate Minister may, in an order undersubsection (2) above, notify the local authority that any continuance or recurrence of the failure in respect of which the authority have been declared to be in default happening after the date of the order may be made the subject of an application to the Court of Session under subsection (3A) below."

(3) After subsection (3) there shall be inserted the following subsection—

"(3A) If—

(a) a local authority have been notified under subsection (2B) above; and

(b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

the Court of Session may, on the application of the Lord Advocate onbehalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been such continuance or recurrence of the failure and do otherwise as to the court appears to be just."

Marginal Citations
M172 1973 c. 65.

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F247160 . . . . . .

Textual Amendments

F247 S. 160 omitted (7.1.1997) by virtue of S.I. 1996/3071, art. 2, **Sch. para. 3(10)**

Miscellaneous housing provisions

161 Housing authorities not required to keep a housing stock.

(1) At the end of section 9 of the M173Housing Act 1985 (provision of housing accommodation) there shall be added the following subsection—

"(5) Nothing in this Act shall be taken to require (or to have at any time required) a local housing authority itself to acquire or hold any houses or other land for the purposes of this Part."

(2) At the end of section 2 of the M174Housing (Scotland) Act 1987 (powers of local authorities to provide housing accommodation) there shall be added the following subsection—

"(6) Nothing in this Act shall be taken to require (or to have at any time required) a local authority itself to acquire or hold any houses or other land for the purposes of this Part."

Marginal Citations

M173 1985 c. 68.
M174 1987 c. 26.

162 Determination of rents.

In section 24 of the Housing Act 1985 (rents), there shall be added at the end the following subsections—

"(3) In exercising their functions under this section, a local housing authority shall have regard in particular to the principle that the rents of houses of any class or description should bear broadly the same proportion to private sector rents as the rents of houses of any other class or description.

(4) In subsection (3) "private sector rents", in relation to houses of any classor description, means the rents which would be recoverable if they were let on assured tenancies within the meaning of the Housing Act 1988 by a person other than the authority."

163 Exchanges between secure and assured tenants.

(1) Section 92 of the Housing Act 1985 (assignment of secure tenancies by way of exchange) shall be amended in accordance with subsections (2) and (3) below.

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(2) At the end of subsection (1) there shall be added the words " or to anassured tenant who satisfies the conditions in subsection (2A) ".

(3) After subsection (2) there shall be inserted the followingsubsection—

"(2A) The conditions to be satisfied with respect to an assured tenant are—

(a) that the landlord under his assured tenancy is either the Housing Corporation, Housing for Wales, a registered housing association or a housing trust which is a charity; and

(b) that he intends to assign his assured tenancy to the secure tenant referred to in subsection (1) or to another secure tenant who satisfies the condition in subsection (2)."

(4) In section 117 of the Housing Act 1985 (index of defined expressions for Part IV) before the entry relating to "cemetery" there shall be inserted—

" assured tenancy »section 622 ".

[F248]164 Exception to the right to buy in case of certain dwelling-houses forpersons of pensionable age.

. . . . . .

Textual Amendments

F248 S. 164 repealed (11.10.1993) by 1993 c. 28, s.187(2), **Sch.22**; S.I. 1993/2134, art.4(b), **Sch. 2** (with Sch. 1 para. 4(1)(2))

165 Unfit housing etc.

(1) In the Housing Act 1985,—

(a) Part VI (repair notices) shall be amended in accordance with Part I of Schedule 9 to this Act;

(b) Part IX (slum clearance) shall be amended in accordance with Part II of that Schedule;

(c) Part XI (houses in multiple occupation) shall be amended in accordance with Part III of that Schedule;

(d) Part XVII (compulsory purchase and land compensation) shall be amended in accordance with Part IV of that Schedule; and

(e) Part XVIII (miscellaneous and general) shall be amended in accordance with Part V of that Schedule.

(2) Part VII of the Housing Act 1985 (improvement notices) shall cease to have effect.

(3) For any financial year beginning after the day appointed for the coming into force of this subsection the following provisions of this section shall have effect in place of sections 312 to 314 of the Housing Act 1985 (slum clearance subsidy); and in those provisions "slum clearance functions" means any of the functions under the provisions of Part IX of that Act relating to—

(a) the demolition, closing or purchase of unfit premises,

(b) the demolition of obstructive buildings, and

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(c) clearance areas,

but does not include functions under sections 308 to 311 of that Act (owner's redevelopment or improvement).

(4) On such conditions as he may determine the Secretary of State may pay slum clearance subsidy to a local housing authority in respect of any financial year for which, applying such method of calculation as may be determined by the Secretary of State, the authority have incurred a loss in connection with the exercise of their slum clearance functions; and the rate or rates of the subsidy and the manner in which it is paid shall be such as may be determined by him.

(5) If for any financial year, applying such method of calculation as is referred to in subsection (4) above, a local housing authority have incurred a surplus in connection with the exercise of their slum clearance functions, the Secretary of State may require the authority to pay to him such sum as he may determine in respect of that surplus, together with interest thereon from such time and at such rate or rates as he may determine.

(6) Any determination of the Secretary of State under subsection (4) or subsection (5) above—

(a) shall be made with the consent of the Treasury;

(b) may be made generally or with respect to a particular local housing authority or description of authority, including a description framed by reference to authorities in a particular area; and

(c) may make different provision for different cases or descriptions of case.

(7) If, before the declaration of a renewal area under Part VII of this Act,a local housing authority are satisfied that the rate of slum clearance subsidy which, in accordance with a determination under subsection (4) above, would otherwise be applicable to the authority will not be adequate, bearing in mind the action they propose to take with regard to the area, they may, before making the declaration, apply to the Secretary of State for a subsidy at a higher rate in respect of that area.

(8) An application under subsection (7) above shall be made in such form and contain such particulars as the Secretary of State may determine; and, if such an application is made, the authority shall not declare the area concerned to be a renewal area until the application is approved, refused or withdrawn.

(9) If an application under subsection (7) above is approved, the Secretary of State may pay slum clearance subsidy in respect of the area concerned at such higher rate as he may determine under subsection (4) above.

166 Amendments relating to defective housing.

(1) Part XVI of the [M175]Housing Act 1985 (in this section referred to as "the 1985 Act") and Part XIV of the [M176]Housing (Scotland) Act 1987 (in this section referred to as "the 1987 Act") (assistance for owners of defective housing)shall each be amended in accordance with this section.

(2) In section 537 of the 1985 Act and section 265 of the 1987 Act (determination of form of assistance to which applicant is entitled) insubsection (1) after the word "determine" there shall be inserted " assoon as reasonably practicable ".

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(3) In section 539 of the 1985 Act and section 267 of the 1987 Act (meaning of "work required for reinstatement" etc.) after subsection (1) there shall be inserted the following subsection—

"(1A) In any case where—

(a) the most satisfactory way of dealing with the qualifying defect issubstantially to demolish the building that consists of or includes the defective dwelling or a part of that building, and

(b) it is practicable to rebuild the building or part concerned on, or substantially on, its existing foundations and reconstruct the dwelling to the same, or substantially the same, plan,

the work required to carry out those operations shall be regarded for the purposes of this Part as work required to reinstate the defective dwelling."

(4) In section 561 of the 1985 Act and section 289 of the 1987 Act (Secretary of State's control over designation, variation or revocation)—

(a) in subsection (2) after the word "before" there shall be inserted " the cut-off date or if it is later " and after the words "twomonths" there shall be inserted " or such longer period as the Secretary of State may direct for the purposes of this subsection under subsection (2A)below ";

(b) after that subsection there shall be inserted the subsection specified insubsection (5) below; and

(c) in subsection (3) for the words "within that period" there shall be substituted " before the cut-off date or, if it is later, the expiry of the period for the time being specified in or for the purposes of subsection (2) above ".

(5) The subsection referred to in subsection (4)(b) above is as follows—

"(2A) If, within the period for the time being specified in or (by virtue of the previous operation of this subsection) for the purposes of subsection (2)above, the Secretary of State is satisfied that he does not have reasonably sufficient information to enable him to come to a decision with respect to there solution concerned, he may direct for the purposes of that subsection that it shall have effect as if for the period so specified there were substituted such longer period as is specified in the direction."

(6) In section 567 of the 1985 Act (modifications of Part XVI in relation to shared ownership leases) for subsections (1) to (3) there shall be substituted the following subsections—

"(1) If it appears to a local housing authority that the interest of a person eligible for assistance in respect of a defective dwelling in their area is—

(a) a shared ownership lease, or

(b) the freehold acquired under the terms of a shared ownership lease,

the authority shall prepare and submit to the Secretary of State a scheme providing for the provisions of this Part to have effect, in their application to such a case, subject to such modifications as may be specified in the scheme.

(2) A scheme under subsection (1) above shall not have effect unless approved by the Secretary of State; and any such approval may be made conditional upon compliance with requirements specified by him."

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(7) Any power of the Secretary of State to make regulations under subsection (4) of section 567 of the 1985 Act shall cease to have effect; and in paragraph (d) of that subsection after the word "class" there shall be inserted " or description ".

Marginal Citations
M175 1985 c. 68.
M176 1987 c.26.

167 Reports to tenants etc. on local housing authority functions.

(1) In accordance with the provisions of this section, every local housing authority shall, for each year, furnish to each person who at the end of that year is one of their housing revenue account tenants a report containing such information as may be determined by the Secretary of State relating to the functions of the authority as a local housing authority during that year (including functions which in that year were exercised by any other person as agent of the authority).

(2) In this section "year" means a period of twelve months beginning on 1stApril; and the report relating to any year shall be furnished as soon as practicable after the end of that year and, in any event, not later than six months after the end of that year.

(3) In this section "housing revenue account tenant", in relation to a local housing authority, means a person who, as tenant or licensee, occupies a house or other property within the authority's Housing Revenue Account; and, in the case of joint tenants or joint licensees, it shall be a sufficient compliance with the obligation under subsection (1) above to furnish each housing revenue account tenant with a report that a single copy of it is furnished to the tenants or licensees jointly.

(4) At the same time as they furnish a report under this section to their housing revenue account tenants, a local housing authority shall send a copyof the report to the Secretary of State.

(5) The power to make a determination under subsection (1) above may be so exercised as to make different provision for different cases or descriptions of cases, including different provision for different areas, for different local housing authorities or for different descriptions of local housingauthorities.

(6) The reference in subsection (3) above to a house or other property within an authority's Housing Revenue Account shall be construed in accordance withsection 74(5) above.

(7) In this section "tenant" has the same meaning as in the [M177]Housing Act 1985.

(8) Before making a determination under this section, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.

Marginal Citations
M177 1985 c.68.

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168 Contributions towards costs of housing mobility arrangements.

(1) The Secretary of State may with the consent of the Treasury make grants or loans towards the cost of arrangements for enabling or assisting persons to move and become,—

(a) in England and Wales, tenants or licensees of dwellings; and

(b) in Scotland, tenants of houses.

(2) The grants or loans may be made subject to such conditions as the Secretary of State may determine and may be made so as to be repayable or, as the case may be, repayable earlier if there is a breach of such a condition.

(3) In this section—

"dwelling" means a building or a part of a building occupied or intended to be occupied as a separate dwelling;

"house" has the same meaning as in the [M178]Housing (Scotland) Act 1987; and

"tenant" does not include a tenant under a long lease within the meaning of the [M179]Landlord and Tenant Act 1987 or, as respects Scotland, under a lease for a period exceeding 20 years.

(4) Section 107 of the [M180]Housing Act 1985 and section 80 ofthe Housing (Scotland) Act 1987 (which make provision similar to that made by the preceding provisions of this section, but limited to secure tenants) shall cease to have effect.

Marginal Citations

M178 1987 c.26.

M179 1987 c. 31.

M180 1985 c. 68.

169 Powers of local authorities and Secretary of State as respects services etc. for owners and occupiers of houses for work on them.

(1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of dwellings in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.

(2) Works are relevant works in relation to a dwelling or, as the case may be, a dwelling in any area, if they are works of any of the following descriptions, that is to say—

(a) works to cause the dwelling to be fit for human habitation,

(b) where the occupant is disabled, works for any of the purposes specified in **[**[F249]section 23 of the Housing Grants, Construction and Regeneration Act 1996 (disabled facilities grants: purposes)**]**,

[F250](c) . . . . . .

[F250](d) . . . . . .

(3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—

(a) to consider whether or not to make a charge for exercising it; and

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(b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.

(4) A relevant authority shall have power to give financial assistance in any form to—

(a) any housing association,

(b) any charity, or

(c) any body, or body of any description, approved by the Secretary of State,

towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of dwellings in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.

(5) It shall be the duty of a relevant authority—

(a) in deciding whether to exercise any power conferred by subsection (4)above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other personsto that association, charity or body; and

(b) in exercising any power conferred by subsection (4) above in relation toany association, charity or body—

(i) to have regard to whether that association, charity or body has made or will make charges and their amount; and

(ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.

(6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision,whether or not by that person, of services of any description for owners or occupiers of dwellings in arranging or carrying out works of maintenance, repair or improvement, or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.

(7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.

(8) The person receiving assistance shall comply with the terms on which itis given and compliance may be enforced by the Secretary of State.

(9) In this section—

"charity" means any institution, corporate or not, which is established for charitable purposes and is subject to the control of the High Court in the exercise of the Court's jurisdiction with respect to charities;

"housing association" means a housing association within the meaning of section 1(1) of the [M181]Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such **[**[F251]works**]**;

"local housing authority" shall be construed in accordance with section 1 of the [M182]Housing Act 1985; and

"relevant authority" means a local housing authority or county council.

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Textual Amendments

F249 Words in s. 169(2)(b) substituted (17.12.1996) by 1996 c. 53, s. 103, **Sch. 1 para. 15(1)(2)**; S.I. 1996/2842, **art. 3**

F250 S. 169(2)(c)(d) repealed (19.7.2003) by The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002 (S.I. 2002/1860), art. 1(3), Sch. 4 para. 3, **Sch. 6**

F251 S. 169(9): words in definition of "housing association" substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(6)**

Marginal Citations

M181 1985 c. 69.

M182 1985 c. 68.

170 Powers of local authorities and Secretary of State as respects services,etc., for owners and occupiers of houses for work on them: Scotland.

(1) A relevant authority shall have power to provide professional, technical and administrative services for owners or occupiers of houses in connection with their arranging or carrying out relevant works or to encourage or facilitate the carrying out of such works, whether or not on payment of such charges as the authority may determine.

(2) Relevant works are such works as may be specified in regulations made by the Secretary of State and such works may be so specified by reference to such factors (including factors relating to persons of such descriptions as may be so specified) as the Secretary of State thinks fit.

(3) It shall be the duty of a relevant authority exercising any power conferred by subsection (1) above—

(a) to consider whether or not to make a charge for exercising it; and

(b) to take such measures as are reasonably available to them to secure contributions from other persons towards the cost of exercising it.

(4) A relevant authority shall have power to give financial assistance in any form to—

(a) any housing association,

(b) any charity, or

(c) any body, or body of any description, approved by the Secretary of State,

towards the cost of the provision by that association, charity or body of services of any description for owners or occupiers of houses in arranging works of maintenance, repair or improvement or the encouraging or facilitating the carrying out of such works.

(5) It shall be the duty of a relevant authority—

(a) in deciding whether to exercise any power conferred by subsection (4) above in relation to any association, charity or body, to have regard to the existence and extent of any financial assistance available from other persons to that association, charity or body; and

(b) in exercising any power conferred by subsection (4) above in relation toany association, charity or body—

(i) to have regard to whether that association, charity or body has made or will make charges and their amount; and

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(ii) to encourage the association, charity or body to take such measures as are reasonably available to them to secure contributions from other persons.

(6) The Secretary of State may, with the consent of the Treasury, give financial assistance in any form to any person in respect of expenditure incurred or to be incurred by that person in connection with the provision, whether or not by that person, of services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement or in connection with the encouraging or facilitating, whether or not by that person, the carrying out of such works.

(7) The giving of financial assistance under subsection (6) above shall be on such terms (which may include terms as to repayment) as the Secretary of State, with the consent of the Treasury, considers appropriate.

(8) The person receiving assistance shall comply with the terms on which itis given and compliance may be enforced by the Secretary of State.

(9) In this section—

"charity" means any body, corporate or not, established for charitable purposes;

"charitable purposes" shall be construed in the same way as if it were contained in the Income Tax Acts;

"house" has the meaning given by section 338 of the [M183]Housing (Scotland) Act 1987;

"housing association" means a housing association within the meaning of section 1(1) of the [M184]Housing Associations Act 1985, or a body established by such a housing association for the purpose of, or having among its purposes or objects, those mentioned in section 4(3)(e) of that Act (providing services of any description for owners or occupiers of houses in arranging or carrying out works of maintenance, repair or improvement, or encouraging or facilitating the carrying out of such works);

"relevant authority" means a **[**[F252]council constituted under section 2 of the Local Government .etc. (Scotland) Act 1994**]**

Textual Amendments

F252 S. 170(9): words in definition of "relevant authority" substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(14)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

M183 1987c. 26.
M184 1985 c. 69.

171 Winding up of home purchase assistance scheme.

(1) The Secretary of State may by order make provision for the purpose of bringing to an end the scheme for assistance for first-time buyers which—

(a) as respects England and Wales, is contained in sections 445 to 450 of the [M185]Housing Act 1985, and

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(b) as respects Scotland, is contained in sections 222 to 227 of the Housing (Scotland) Act 1987,

and in the following provisions of this section, the enactments specified in paragraphs (a) and (b) above together with any orders and directions made under those enactments are referred to as "the assistance legislation".

(2) Without prejudice to the generality of the power conferred by subsection (1) above, an order under that subsection—

(a) may specify a date or dates with effect from which account will no longer be taken under the assistance legislation of matters specified in the order;

(b) may vary the terms of advances to lending institutions so as to commute what would otherwise be a number of payments or repayments to or by such an institution into a single payment or a smaller number of payments of such amount and payable at such time or times as may be determined in accordance with the order; and

(c) may provide for the amendment or repeal, in whole or in part, of theassistance legislation with effect from such date or dates and subject to such transitional provisions as may be specified in the order.

(3) The following powers, namely,—

(a) the powers conferred on the Secretary of State by subsection (3) ofsection 446 of the Housing Act 1985 and subsection (3) of section 223 of the Housing (Scotland) Act 1987 to relax or modify the conditions in subsection (2) of each of those sections respectively (conditions qualifying a purchaser for assistance), and

(b) any power to make an order under any provision of the assistance legislation,

may be so exercised as to make provision for the purpose referred to in subsection (1) above.

(4) The power to make an order under subsection (1) above shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Marginal Citations
M185 1985 c. 68.

172 Transfer of new town housing stock.

(1) Subject to the following provisions of this section, the Secretary of State may by regulations make provision for requiring and authorising each new town corporation to take such steps as may be prescribed for making and giving effect to proposals for disposing of their housing stock, either by transferring it as a whole to a prescribed person or by transferring different parts of it to different prescribed persons.

(2) Regulations under subsection (1) above shall not require a new town corporation to transfer any dwelling or associated property, rights, liabilities or obligations to any person other than—

(a) the district council **[**F253or Welsh county council or county borough council**]**within whose **[**F254area**]** the dwelling is situated; or

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(b) a person approved for the purposes of, and in accordance with, the regulations by the Housing Corporation [F255]. . ..

(3) Regulations under subsection (1) above shall not require a new town corporation to give effect to a proposal for the transfer of any dwelling if the dwelling is one in respect of which a notice has been served under section 122 of the [M186]Housing Act 1985 (notice of a claim to exercise the right to buy) before the prescribed time and such other conditions as maybe prescribed are satisfied.

(4) A new town corporation shall not, in pursuance of any regulations under subsection (1) above, transfer any dwellings, or any associated property, rights, liabilities or obligations, to any person except with the consent of the Secretary of State; and the Secretary of State shall not give his consent to a proposed transfer unless he is satisfied—

(a) that there has been compliance with all such requirements with respect to the publication of information about the proposal and matters connected with its implementation, and with respect to consultation about the proposal, as are prescribed;

(b) that all such steps have been taken as are prescribed for the purpose of protecting the interests of the occupiers of the dwellings or the interests of the occupiers of any dwellings excluded from the proposal by virtue of subsection (3) above or any such consultation; and

(c) that the terms on which the transfer is made—

(i) require such price to be paid for the property transferred as appears to him to be the price which, on the prescribed assumptions, it would realise if sold on the open market by a willing vendor; and

(ii) include all such other terms as are prescribed.

(5) Regulations under subsection (1) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate, including, without prejudice to the generality of the foregoing, provision corresponding to sub-paragraphs (2) and (3) of paragraph 2 of Schedule 12 to the [M187]Housing Act 1988 (matters relating to registration of title).

(6) Subject to subsection (7) below, Part III of the [M188]New Towns Act 1981 (transfer of dwellings and associated property to district councils) shall cease to have effect.

(7) Nothing in subsection (6) above shall—

(a) affect the operation after the time when that subsection comes into force of so much of any transfer scheme made under Part III of the said Act of 1981before that time as contains management arrangements with respect to land in which a new town corporation have an interest;

(b) affect the application after that time of section 50 of that Act (financial arrangements) in relation to any transfer scheme made under that Part before that time; or

(c) prevent the Secretary of State from exercising his power to make grants to a district council **[**[F253]or Welsh county council or county borough council**]** under section 51A of that Act (grants in respect of defects in transferred dwellings) where the grants are paid before the 1st April 1990 or such later date as the Secretary of State may by order made by statutory instrument appoint in relation to that council;

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and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(8) In this section—

"dwelling" means any building or part of a building occupied,or erected or adapted for occupation, as a dwelling or as a hostel (including any land belonging to it or usually enjoyed with it);

"housing stock", in relation to a new town corporation,means—

(a) the dwellings (whether or not in the area of a particular new town) which are vested in that corporation and were erected, adapted or acquired for occupation as dwellings; and

(b) except so far as may be prescribed, any associated property, rights, liabilities and obligations of that corporation;

"liabilities and obligations", in relation to a new town corporation, includes liabilities and obligations which, apart from the regulations, would not be capable of being assigned or transferred by the corporation, including liabilities and obligations under Part V of the [M189]Housing Act 1985 (the right to buy);

"new town corporation" means the Commission for the New Towns [F256]. . . or a development corporation,within the meaning of the New Towns Act 1981; and

"prescribed" means prescribed by or determined under regulations under subsection (1) above.

(9) For the purposes of this section the following property, rights, liabilities and obligations of a new town corporation shall be treated as associated with any dwellings comprised in their housing stock, that is to say—

(a) any interest of the corporation in any land occupied or set aside for occupation or use with the dwellings;

(b) any interest of the corporation in land in the vicinity of the dwellings which is held by them for the benefit or use of the persons living in those dwellings (rather than the inhabitants of a new town as a whole) or for providing facilities for the persons living in those dwellings, and any other property and any rights of the corporation so held;

(c) any property and rights held by the corporation—

(i) for the administration of an estate comprising the dwellings or any associated property;

(ii) for the maintenance or service of the dwellings or any associated property; or

(iii) otherwise in connection with any such property;

(d) any rights, liabilities and obligations which the corporation have in connection with any of the dwellings or any associated property or in connection with any dwellings which were previously part of their housing stock;

(e) any interest of the corporation in land set aside by them as an open space for the use or enjoyment of persons living in the dwellings (rather than for the use of the inhabitants of a new town as a whole).

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Textual Amendments

F253 Words in s. 172(2)(a)(7)(c) inserted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(a)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**

F254 Word in s. 172(2)(a) substituted (1.4.1996) by 1994 c. 19, s. 22(2), **Sch. 8 para. 10(3)(b)** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, **art. 3**

F255 Words in s. 172(2)(b) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 75, **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

F256 S. 172(8): words in definition of "new town corporation" repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 4**

Marginal Citations

M186 1985 c. 68.
M187 1988 c. 50.
M188 1981 c. 64.
M189 1985 c. 68.

173 Consent required for subsequent disposals.

(1) Where a dwelling which is for the time being subject to a secure tenancy is transferred under section 172 above to a person approved as mentioned in subsection (2)(b) of that section (in this section referred to as an "approved person"), that person shall not dispose of it except—

(a) with the consent of the Secretary of State, which may be given either unconditionally or subject to conditions; or

(b) by an exempt disposal, as defined in section 81(8) of the [M190]Housing Act 1988;

and any reference in the following provisions of this section to an initial transfer is a reference to the transfer of a dwelling to an approved person under section 172 above.

(2) Where an estate or interest in a dwelling of the approved person whoacquired it on the initial transfer has been mortgaged or charged, the prohibition in subsection (1) above applies also to a disposal by the mortgagee or chargee in exercise of a power of sale or leasing, whether or not the disposal is in the name of the approved person; and in any case where—

(a) by operation of law or by virtue of an order of a court, the dwelling which has been acquired on the initial transfer passes or is transferred from the approved person to another person, and

(b) that passing or transfer does not constitute a disposal for which consent is required under this section,

this section (including, where there is more than one such passing or transfer, this subsection) shall apply as if the other person to whom the dwelling passes or is transferred were the approved person.

(3) Where subsection (1) above applies—

(a) the new town corporation by whom the initial transfer is made shall furnish to the approved person a copy of the consent of the Secretary of State under section 172(4) above; and

(b) the instrument by which the initial transfer is effected shall contain astatement in a form approved by the Chief Land Registrar that the requirement of this

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section as to consent applies to a subsequent disposal of the dwelling by the approved person.

(4) For the purposes of this section the grant of an option to purchase the fee simple or any other interest in a dwelling is a disposal and a consent given to such a disposal extends to a disposal made in pursuance of the option.

(5) Before giving any consent required by virtue of this section, the Secretary of State—

(a) shall satisfy himself that the person who is seeking the consent has taken appropriate steps to consult every tenant of any dwelling proposed to be disposed of; and

(b) shall have regard to the responses of any such tenants to that consultation.

(6) If, apart from subsection (7) below, the consent of the Housing Corporation F257. . . would be required under **[**F258section 9 or 42 of the Housing Act 1996 (control of dispositions by registered social landlords) or**]** section 9 of the M191Housing Associations Act 1985 (control of dispositions of land by **[**F258unregistered**]**housing associations) for a disposal in respect of which, by virtue of subsection (1) above, the consent of the Secretary of State is required, the Secretary of State shall consult that body before giving his consent for the purposes of this section.

(7) No consent shall be required under **[**F259section 9 or 42 of the Housing Act 1996 or section 9 of the Housing Associations Act 1985**]** for any disposal in respect of which consent is given **[**F260under this section**]**.

(8) Where the title of the new town corporation to the dwelling which is transferred by the initial transfer is not registered, and the initial transfer is a **[**F261transfer or grant**]** of a description mentioned in **[**F262section 4 of the Land Registration Act 2002**]** (compulsory registration of title)—

F263(a) . . . . . .

(b) the corporation shall give the approved person a certificate in a form approved by the Chief Land Registrar stating that the corporation is entitled to make the transfer subject only to such encumbrances, rights and interests as are stated in the instrument by which the initial transfer is effected or summarised in the certificate; and

(c) for the purpose of registration of title, the Chief Land Registrar shall accept such a certificate as evidence of the facts stated in it, but if as a result he has to meet a claim against him under the **[**F264Land Registration Act 2002**]** the corporation by whom the initial transfer was made is liable to indemnify him.

[F265(9) Where the Chief Land Registrar approves an application for registration of—

(a) a disposition of registered land, or

(b) a person's title under a disposition of unregistered land,

and the instrument effecting the initial transfer contains the statement required by subsection (3) above, he shall enter in the register a restriction reflecting the limitation under this section on subsequent disposal.**]**

(10) In this section—

(a) "dwelling" and "new town corporation" have the same meaning as in section 172 above; and

(b) "secure tenancy" has the meaning assigned by section 79 of the M192Housing Act 1985.

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Textual Amendments

F257 Words in s. 173(6) repealed (1.11.1998) by 1998 c. 38, ss. 140, 152, Sch. 16 para. 76(1)(2), **Sch. 18 Pt. VI** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

F258 Words in s. 173(6) inserted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(a)**

F259 Words in s. 173(7) substituted (1.10.1996) by S.I. 1996/2325, art. 5(1), **Sch. 2 para. 19(7)(b)**

F260 Words in s. 173(7) substituted (1.11.1998) by 1998 c. 38, s. 140, **Sch. 16 para. 76(1)(3)** (with ss. 137(1), 139(2), 141(1), 143(2)); S.I. 1998/2244, **art. 5**

F261 Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(a)** (with s. 129); S.I. 2003/1725, art. 2(1)

F262 Words in s. 173(8) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(b)** (with s. 129); S.I. 2003/1725, art. 2(1)

F263 S. 173(8)(a) repealed (1.4.1998) by 1997 c. 2, s. 4(2), **Sch. 2 Pt. I**; S.I. 1997/3036, **art. 2(c)**

F264 Words in s. 173(8)(c) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(2)(c)** (with s. 129); S.I. 2003/1725, art. 2(1)

F265 S. 173(9) substituted (13.10.2003) by Land Registration Act 2002 (c. 9), s. 136(2), **Sch. 11 para. 24(3)** (with s. 129); S.I. 2003/1725, art. 2(1)

Marginal Citations

M190 1988 c.50.

M191 1985 c. 69.

M192 1985 c. 68.

F266174 . . . . . .

Textual Amendments

F266 S. 174 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19**, Pt. IX; S.I. 1996/2402, **art. 3** (subject to transitional provisions and savings in Sch.)

175 Repeal of the Town Development Act 1952.

No undertaking shall be given under section 2 or 4 of the [M193]Town Development Act 1952 (Government and local authority contributions for the purposes of town development), and no payment shall be made in pursuance of any such undertaking, at any time after 31st March 1990; and that Act shall cease to have effect except for the purposes of any town development (within the meaning of that Act) in relation to which any undertaking has been given before that date under section 2 of that Act.

Marginal Citations

M193 1952 c.54.

176 Amendment of definition of occupation for purposes of purchase of house by secure tenant: Scotland.

(1) In section 61(10) of the [M194]Housing (Scotland) Act 1987 (definition of occupation of house for purposes of purchase by secure tenant)—

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(a) in paragraph (a)(v) (occupation by member of tenant's family succeeding to tenancy may be treated, at discretion of landlord, as occupation for purposes of right to buy) the words "in the discretion of the landlord" shall be omitted; and

(b) in paragraph (b) (rules for determining period of occupation) there shall be added at the end—

"and

(iii) there shall be added to the period of occupation of a house by a joint tenant any earlier period during which he was at least 16 years of age and occupied the house as a member of the family of the tenant or of one or more of the joint tenants of the house.".

(2) This section does not apply in any case where the application to purchase the house under section 63(2) of that Act has been served before the coming into force of this section.

Marginal Citations
M194 1987 c. 26.

[F267 177 Sale to secure tenants of houses provided for persons of pensionable age: Scotland.

In section 69 of the Housing (Scotland) Act 1987 (Secretary of State's power to authorise refusal to sell certain houses provided for persons of pensionable age) after subsection (1) there shall be inserted the following subsection—

"(1A) This section applies only to houses first let on a secure tenancy before 1st January 1990."]

Textual Amendments
F267 S. 177 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

178 Application of secure tenant's right to buy to cases where landlord is lessee: Scotland.

[F268 (1) In section 76 of the Housing (Scotland) Act 1987 (duty of landlords toprovide information to secure tenants)—

(a) in subsection (1)(a)—

(i) for the word "not" there shall be substituted the word " neither "; and

(ii) after the word "house" there shall be inserted the words " nor holds the interest of the landlord under a registered lease of the house or of land which includes it" ";

(b) in subsection (2) for the words "heritable proprietor of the house" there shall be substituted the words " either the heritable proprietor of the house or the holder of the interest of the landlord under a registered lease of the house or of land which includes it "; and

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(c) in subsection (3)(b) at the end there shall be inserted the words " or a local authority is the holder of the interest of the landlord under a registered lease of the house or of land which includes it. "**]**

(2) After section 84 of that Act there shall be inserted the following section—

"**84A Application of right to buy to cases where landlord is lessee.**

(1) Sections 61 to 84 (but not 76 or 77) and 216 (the "right to buy" provisions) shall, with the modifications set out in this section, apply so as to provide for—

(a) the acquisition by the tenant of a house let on a secure tenancy of the landlord's interest in the house as lessee under a registered lease of the house or of land which includes it or as assignee of that interest; and

(b) the obtaining of a loan by the tenant in that connection,

as these sections apply for the purposes of the purchase of a house by the tenant from the landlord as heritable proprietor of it and the obtaining by the tenant of a loan in that connection.

(2) References in the right to buy provisions to the purchase or sale of a house shall be construed respectively as references to the acquisition or disposal of the landlord's interest in the house by way of a registered assignation of that interest and cognate expressions shall be construed accordingly.

(3) The reference in section 61(2)(b) to the landlord's being the heritable proprietor of the house shall be construed as a reference to the landlord's being the holder of the interest of the lessee under a registered lease of the house or of land which includes it.

(4) References in the right to buy provisions to the market value of or price to be paid for a house shall be construed respectively as references to the market value of the landlord's interest in the house and to the price to be paid for acquiring that interest.

(5) References in section 64(1) to the tenant's enjoyment and use of a house as owner shall be construed as references to his enjoyment and use of it as assignee of the landlord's interest in the house.

(6) The reference in subsection (4) of section 64 to an option being offered to the landlord or to any other person to purchase the house in advance of its sale to a third party shall be construed as a reference to an option being offered to have the interest acquired by the tenant re-assigned to the landlord or assigned to the other person in advance of its being disposed of to a third party; and the references in subsection (5) and (9) of that section to an option to purchase shall be construed accordingly.

(7) In this section and section 76—

"registered lease" means a lease—

(a) which is recorded in the general register of sasines; or

(b) in respect of which the interest of the lessee is registered in the Land Register of Scotland

under the Registration of Leases (Scotland) Act 1857; and

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"registered assignation" means, in relation to such a lease,an assignation thereof which is so recorded or in respect of which the interest of the assignee has been so registered."

Textual Amendments

F268 S. 178(1) repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

[F269 179 Amendment of powers of Scottish Homes to dispose of land.

(1) In section 2 of the M195Housing (Scotland) Act 1988 (which, amongst other things, enables Scottish Homes to dispose of land)—

(a) in subsection (2) (powers of Scottish Homes), after "(3)" there shall be inserted " and (3A) ";

(b) in subsection (3)(b)—

(i) after "above" there shall be inserted the words " , other than the power under paragraph (h) to dispose of land, "; and

(ii) for the word "with" where secondly occurring there shall be substituted the words " between it and ";

(c) after subsection (3) there shall be inserted the following subsection—

"(3A) The power conferred by subsection (2)(h) above upon Scottish Homes to dispose of land may be exercised only with the consent of the Secretary of State (which consent may be given in relation to particular cases or classes of case and may be made subject to conditions).";

(d) subsection (6) (certain land not to be disposed of, without consent, for less than best price) shall be omitted.]

Textual Amendments

F269 S. 179 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

Marginal Citations

M195 1988 c. 43.

180 Race relations: codes of practice in housing field.

The amendments of section 47 of the M196Race Relations Act 1976 (codes of practice) made by subsections (2) and (3) of section 137 of the M197Housing Act 1988 (codes of practice in the field of rented housing) shall be varied as follows—

(a) in subsection (1)(c) of the said section 47 the words following "field of housing" shall be omitted; and

(b) the word "rented", where it occurs in subsections (1)(d) and (3A) of that section, shall be omitted.

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Marginal Citations
M196 1976 c. 74.
M197 1988 c. 50.

[F270 181 Duty of landlord to inform secure tenant seeking to buy house about changes in law: Scotland.

In section 76 of the M198 Housing (Scotland) Act 1987 (duty of landlords to provide information to secure tenants) there shall be added at the end the following subsections—

"(4) Where—

(a) by way of any enactment (including an enactment made under this Act), any change is to be made in the law relating to the calculation of the price at which the tenant of a house is entitled under this Act to purchase it, being a change which does not come into force upon the passing or making of that enactment but which, when it does come into force will affect the price of the house, and

(b) the house is one in respect of which an application to purchase has, in the period ending with the coming into force of the change, been served under section 63(1) and not withdrawn but no contract of sale of the house has been constituted under section 66(2),

the landlord shall, upon the passing or making of that enactment or, if later, upon the service of the application to purchase, forthwith give written notice to the tenant stating the nature of the change and how it will affect the price and suggesting that the tenant should seek appropriate advice.

(5) For the purposes of subsection (4), a change in the law will affect the price of a house if, on the day it falls to be calculated under the law as changed, the price will be different from what it would have been that day had there been no such change."**]**

Textual Amendments
F270 S. 181 repealed (S.) (30.9.2002 subject to arts. 3-5 of the commencing S.S.I.) by 2001 asp 10, s. 112, Sch. 10 para. 16; S.S.I. 2002/321, **art. 2**, Sch. (with arts. 3-5)

Marginal Citations
M198 1987 c. 26.

Other provisions

F271 182 . . . . . .

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Textual Amendments

F271 S. 182 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. I**; S.I. 1996/2402, **art. 3** (subject to transtitional provisions and savings in Sch.)

183 Extension of powers of Housing Corporation and Housing for Wales to give financial assistance.

For section 87 of the [M199]Housing Associations Act 1985 (grants towards expenses in promoting or assisting registered housing associations) there shall be substituted the following section—

"**87 Financial assistance with respect to formation, management, etc. of certain housing associations.**

(1) The Corporation may give financial assistance to any person in respect of the following activities—

(a) promoting and giving advice on the formation of registered housing associations and co-operative housing associations (in this section referred to collectively as "relevant associations");

(b) managing, providing services for, and giving advice on the running of, relevant associations; and

(c) assisting tenants and licensees of a relevant association to take part in the management of the association or of some or all of the dwellings provided by the association.

(2) Assistance under this section may be in the form of grants, loans, guarantees or incurring expenditure for the benefit of the person assisted or in such other way as the Corporation considers appropriate, except that the Corporation may not, in giving any form of financial assistance, purchase loan or share capital in a company.

(3) With respect to financial assistance under this section, the following—

(a) the procedure to be followed in relation to applications for assistance,

(b) the circumstances in which assistance is or is not to be given,

(c) the method for calculating, and any limitations on, the amount of assistance, and

(d) the manner in which, and the time or times at which, assistance is to be given,

shall be such as may be specified by the Corporation, acting in accordance with such principles as it may from time to time determine.

(4) In giving assistance under this section, the Corporation may provide that the assistance is conditional upon compliance by the person to whom the assistance is given with such conditions as it may specify.

(5) Where assistance under this section is given in the form of a grant, subsections (1), (2) and (7) to (9) of section 52 of the Housing Act 1988 (recovery, etc. of grants) shall apply as they apply in relation to a grant to which that section applies, but with the substitution, for any reference in those subsections to the

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registered housing association to which the grant has been given, of a reference to the person to whom assistance is given under this section.

(6) Section 53 of the Housing Act 1988 (determinations under Part II) shall apply in relation to a determination under this section as it applies to a determination under sections 50 to 52 of that Act."

Marginal Citations
M199 1985 c. 69.

184 Extension of functions of Audit Commission.

(1)

F272F273(2) . . . . . .

(3F272

Textual Amendments
F272 S. 184(1)(3) repealed by National Health Service andCommunity Care Act 1990 (c. 19, SIF 113:2), s. 66(2), **Sch. 10**
F273 S. 184(2) repealed (11.9.1998) by 1998 c. 18, ss. 54(3), 55(2), **Sch. 5**

185 Publication of reports of Controller of Audit: Scotland.

In section 102 of the M200Local Government (Scotland) Act 1973 (reports to Commission for Local Authority Accounts by Controller ofAudit)—

(a) in subsections (1) and (2) there shall, in each case, be added at the end the words " and may send a copy of any report so made to any other person he thinks fit" "; and

(b) after subsection (2) there shall be inserted the following subsection—

"(2A) A local authority shall, forthwith upon their receiving a copy of a report sent to them under subsection (1) or (2) above, supply a copy of that copy report to each member of the authority and make additional copies available for public inspection."

Marginal Citations
M200 1973 c. 65.

186 Security of tenure on ending of long residential tenancies.

(1) Schedule 10 to this Act shall have effect (in place of Part I of the M201Landlord and Tenant Act 1954) to confer security of tenure on certain tenants under long tenancies and, in particular, to establish assured periodic tenancies when such long tenancies come to an end.

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(2) Schedule 10 to this Act applies, and section 1 of the Landlord and TenantAct 1954 does not apply, to a tenancy of a dwelling-house—

(a) which is a long tenancy at a low rent, as defined in Schedule 10 to this Act; and

(b) which is entered into on or after the day appointed for the coming into force of this section, otherwise than in pursuance of a contract made before that day.

(3) If a tenancy—

(a) is in existence on 15th January 1999, and

(b) does not fall within subsection (2) above, and

(c) immediately before that date was, or was deemed to be, a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954,

then, on and after that date (and so far as concerns any notice specifying a date of termination on or after that date and any steps taken in consequence thereof), section 1 of that Act shall cease to apply to it and Schedule 10 to this Act shall apply to it unless, before that date, the landlord has served a notice under section 4 of that Act specifying a date of termination which is earlier than that date.

(4) The provisions of Schedule 10 to this Act have effect notwithstanding any agreement to the contrary, but nothing in this subsection or that Schedule shall be construed as preventing the surrender of a tenancy.

(5) Section 18 of the Landlord and Tenant Act 1954 (duty of tenants of residential property to give information to landlords or superior landlords) shall apply in relation to property comprised in a long tenancy at a low rent, within the meaning of Schedule 10 to this Act, as it applies to property comprised in a long tenancy at a low rent within the meaning of Part I of that Act, except that the reference in that section to subsection (1) of section 3 of that Act shall be construed as a reference to sub-paragraph (1) of paragraph 3 of Schedule 10 to this Act.

(6) Where, by virtue of subsection (3) above, Schedule 10 to this Act applies to a tenancy which is not a long tenancy at a low rent as defined in that Schedule, it shall be deemed to be such a tenancy for the purposes of that Schedule.

Modifications etc. (not altering text)
C103 S. 186 modified by S.I. 1990/776, **arts. 2(2)**, 5(2)(b)

Marginal Citations
M201 1954 c. 56.

187 Construction industry: grants and guarantees.

(1) The Secretary of State may, for the purpose of promoting or facilitating the carrying on of any of the activities specified in subsection (2) below, do one or both of the following, that is to say—

(a) make grants to any person who carries on any such activities;

(b) guarantee the repayment of the principal of, the payment of interest on and the discharge of any other financial obligation in connection with sums borrowed temporarily by any such person.

(2) The activities mentioned in subsection (1) above are—

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(a) the assessment of, and of applications of, materials, products, systems and techniques used or proposed for use in the construction industry; and

(b) the issue of certificates, promotion of common standards and publication of information with respect to any such materials, products, systems or techniques.

(3) The consent of the Treasury shall be required for the exercise by the Secretary of State of his power under this section to make a grant or give a guarantee; but, subject to that consent and to the following provisions of this section, that power shall be a power to make a grant or give a guarantee in such manner and on such conditions as he thinks fit.

(4) Immediately after a guarantee is given under this section, the Secretary of State shall lay a statement of the guarantee before each House of Parliament.

(5) Where any sums are paid out in fulfilment of a guarantee given under this section in respect of any person's borrowing, that person shall make to the Secretary of State, at such times and in such manner as the Secretary of State may, with the consent of the Treasury, from time to time direct—

(a) payments, of such amounts as the Secretary of State may so direct, in or towards repayment of those sums; and

(b) payments of interest, at such rate as the Secretary of State may so direct, on what is outstanding for the time being in respect of those sums.

(6) As soon as possible after the end of any financial year in which—

(a) any sums are paid out in fulfilment of a guarantee given under this section, or

(b) any liability in respect of the principal of sums so paid out, or in respect of interest on any such sums, is outstanding,

the Secretary of State shall lay before each House of Parliament a statement relating to the sums.

188 Repeal of s. 2 of the Education (Grants and Awards) Act 1984.

Section 2 of the [M202]Education (Grants and Awards) Act 1984 (limit on expenditure approved for grant purposes) shall not apply in relation to any expenditure approved for the financial year beginning with 1st April 1990 or any subsequent financial year.

Marginal Citations

M202 1984 c. 11.

[F274]189 . . . . . .

Textual Amendments

F274 S. 189 repealed (1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(2), **Sch.13**; S.I. 1992/333, art. 2(2), **Sch.2**

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Supplementary

190 Regulations.

(1) Under any power to make regulations conferred by any provision of this Act, different provision may be made for different cases and different descriptions of cases (including different provision for different areas).

(2) Any power to make regulations conferred by any provision of this Act shall be exercisable by statutory instrument which, except in the case of a statutory instrument containing regulations under section 150 or section 151or Schedule 10, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

191 Separate provisions for Wales.

(1) Where any provision of this Act which extends to England and Wales confers (directly or by amendment of another Act) a power on the Secretary of State to make regulations, orders, rules or determinations or to give directions or specify any matter, the power may be exercised differently for England and Wales, whether or not it is exercised separately.

(2) This section is without prejudice to section 190(1) above and to any other provision of this Act or of any Act amended by this Act by virtue of which powers may be exercised differently in different cases or in any other circumstances.

192 Financial provisions.

(1) There shall be paid out of money provided by Parliament—
- (a) any sums required for the payment by the Secretary of State of grants, subsidies or contributions under this Act;
- (b) any sums required by the Secretary of State for fulfilling any guarantees under this Act;
- (c) any other expenses of the Secretary of State under this Act; and
- (d) any increase attributable to this Act in the sums so payable under anyother enactment.

(2) Any sums received by the Secretary of State under this Act shall be paid into the Consolidated Fund.

193 Application to Isles of Scilly.

(1) This Act applies to the Isles of Scilly subject to such exceptions, adaptations and modifications as the Secretary of State may by order direct.

(2) The power to make an order under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

194 Amendments and repeals.

(1) Schedule 11 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.

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(2) The enactments specified in Part I of Schedule 12 to this Act, which relate to or are superseded by the provisions of Part IV of this Act, are hereby repealed to the extent specified in the third column of that Schedule; and the Secretary of State may by order made by statutory instrument make provision (in consequence of the said Part IV) amending, repealing or revoking (with or without savings) any provision of an Act passed before or in the same session as this Act, or of an instrument made under an Act before the passing of this Act.

(3) In subsection (2) above "Act" includes a private or local Act and a statutory instrument by which the power in that subsection is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) The other enactments specified in Part II of Schedule 12 to this Act,which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule, but subject to any provision at the end of that Schedule.

Commencement Information

I9 S. 194(1). partly in force; s. 194(1) in force for certain purposes at 27.2.1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(1), **Sch.**
S. 194(1) partly in force; s.194(1) in force for certain purposes at 1.4.1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**
S. 194(1) partly in force; s. 194(1) in force at 1.4.1991 so far as it relates to Sch. 11 para. 113, see s. 195(2) and S.I. 1991/953, **art. 2**
S. 194(1) partly in force: s. 194(1) in force at 8.5.1992 so far as it relates to Sch. 11 para. 30, see s. 195(2) and S.I. 1992/760, **art. 2**
S. 194(1) partly in force: s. 194(1) in force at 25.1.1993 so far as it relates to Sch. 11 para. 14, see s. 195(2) and S.I. 1993/105, **art. 2**

I10 S. 194(4) partly in force; s. 194(4) in force for certain purposes at 1.4.1991 see s. 195(2)(3) and S. I. 1991/344, art. 3(2)(b), **Sch.**

195 Short title, commencement and extent.

(1) This Act may be cited as the Local Government and Housing Act 1989.

(2) The provisions of sections 1 and 2, 9, 10, 13 to 20 above, Parts II to V (with the exception in Part II of section 24), VII and VIII and (in this Part) sections 140 to 145, 156, 159, 160, 162, 164, 165, 167 to 173, 175 to 180, 182 and 183, 185, 186 and 194, except in so far as it relates to paragraphs 104 to 106 of Schedule 11, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes.

(3) An order under subsection (2) above may contain such transitional provisions and savings (whether or not involving the modification of any statutory provision) as appear to the Secretary of State necessary or expedient in connection with the provisions brought into force by the order.

(4) Subject to subsection (5) below, this Act, except Parts I and II and sections 36(9), 140 to 145, 150 to 152, 153, 155, 157, 159, 161, 166, 168, 170, 171, 176 to 182, 185, 190, 192, 194(1), 194(4) and this section, extendsto England and Wales only.

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Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(5) Notwithstanding anything in subsection (4) above, any provision of Schedule 11 or Part II of Schedule 12 to this Act which amends or repeals any provision of the following enactments does not extend to Scotland—

(a) the [M203]Military Lands Act 1892;

(b) the [M204]Local Authorities (Expenditure Powers) Act 1983.

(6) This Act does not extend to Northern Ireland.

Modifications etc. (not altering text)

C104 Power of appointment conferred by s. 195(2) partly exercised: S.I. 1989/2180, 2186, 2445, 1990/191, 431, 762, 961, 1274, 1335,1552, 2581

Marginal Citations

M203 1892 c. 43.

M204 1983 c. 52.

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SCHEDULES

SCHEDULE 1

Section 15.

POLITICAL BALANCE ON LOCAL AUTHORITY COMMITTEES ETC.

Modifications etc. (not altering text)

C105 Sch. 1 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Commencement Information

I11 Sch. 1 partly in force; Sch. 1 not in force at Royal Assent see s. 195(2); Sch. 1 in force for certain purposes at 16.1.1990 by S.I. 1989/2445, **art. 4**; Sch. 1 in force at 1.8.1990 as it applies in relation to England and Wales and in so far as it is not already in force by S.I. 1990/1552, **art. 3**.

Bodies to which section 15 applies

1 Subject to such exceptions as may be prescribed by regulations made by the Secretary of State, section 15 of this Act applies, in relation to any relevant authority or committee of a relevant authority—

(a) to any ordinary committee or ordinary sub-committee of the authority;

(b) to any advisory committee of the authority and to any sub-committee appointed by such an advisory committee; and

(c) to any such body falling within paragraph 2 below as is a body at least three seats on which fall from time to time to be filled by appointments made by the authority or committee.

2 (1) For the purposes of paragraph 1 above, in its application in relation to relevant authorities in England and Wales or the committees of such authorities, a body falls within this paragraph if it is a body of any of the following descriptions, that is to say—

(a) a relevant authority which is a local authority of any of the descriptions specified in **[**F275paragraphs (f) or (h) to (j)**]**of section 21(1) of this Act;

(b) a local authority of any of the descriptions specified in **[**F276paragraphs (k), F277. . .and (n)**]**of section 21(1) of this Act;

[F278(ba) a National Park authority;**]**

[F279(bb) a conservation board established by order under section 86 of the Countryside and Rights of Way Act 2000;**]**

(c) . . . . . .

(d) a local fisheries committee for any sea fisheries district;

(e) a committee established in accordance with any regulations made by virtueof section 7 of the M205Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);

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F280(f) . . . . . .

(g) a board or committee appointed by one or more relevant authorities in exercise of a power conferred by a local enactment, being a board or committee seats on which are required to be filled by the appointment of members of that authority or of those authorities;

(h) a joint committee not falling within sub-paragraphs (a) to (g) above appointed by two or more relevant authorities under section 102(1)(b) of the M206Local Government Act 1972.

(2) For the purposes of paragraph 1 above, in its application in relation to relevant authorities in Scotland or to the committees of such authorities, a body falls within this paragraph if it is—

(a) a joint board within the meaning of section 235(1) of the M207Local Government (Scotland) Act 1973;

(b) a board or committee appointed by one or more relevant authorities in exercise of a power conferred by a local enactment, being a board or committee seats on which are required to be filled by the appointment of members of that authority or of those authorities;

(c) a joint committee appointed by two or more relevant authorities under section 57(1)(b) of the Local Government (Scotland) Act 1973.

Textual Amendments

F275 Words in Sch. 1 para. 2(1)(a) substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 44(a)**; S.I. 1994/2025, **art. 6(1)(2)(g)**; S.I. 1994/3262, art. 4, **Sch.** (subject to transitional provision in art. 5)

F276 Words in Sch. 1 para. 2(1)(b) substituted (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(5)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, **art. 2**

F277 Word "(m)" in Sch. 1 para. 2(1)(b) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, art. 2, **Sch.**

F278 Sch. 1 para. 2(1)(ba) inserted (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 2(8)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

F279 Sch. 1 para. 2(1)(bb) inserted (1.4.2001 for E. and 1.5.2001 for W.) by 2000 c. 37, s. 86(2), **Sch. 13 para. 4(7)** (with s. 84(4)-(6)); S.I. 2001/114, **art. 2(2)(e)**; S.I. 2001/1410, **art. 2(g)**

F280 Sch. 1 para. 2(1)(f) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1996/2560, art. 2, **Sch.**

Marginal Citations

M205 1972 c. 11.

M206 1972 c. 70.

M207 1973 c.65.

Construction of sections 15 to 17

3 (1) The Secretary of State may, for the purposes of sections 15 and 16 of this Act, by regulations make provision—

(a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;

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(b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such agroup;

(c) requiring the question whether a person is or is not a member of a political group to be determined in such manner as may be provided for by or under the regulations;

(d) specifying the manner in which, and times at which, the wishes of such a group are to be expressed and the consequences of a failure by such a group to express its wishes.

(2) Regulations under this paragraph may make provision modifying the provisions of sections 15 and 16 of this Act in relation to any case in which some of the members of a relevant authority fall to be treated as members of one or more political groups and the others do not.

4 (1) In sections 15 to 17 of this Act and this Schedule—

"advisory committee", in relation to a relevant authority,means a committee appointed by the authority under section 102(4) of the [M208]Local Government Act 1972 or section 57(4) of the [M209]Local Government (Scotland) Act 1973 (advisory committees);

[F281]. . .

"membership", in relation to a relevant authority, means the number of persons who are for the time being members of the authority, disregarding any person who is treated as continuing to be a member of the authority by virtue of section 3(3) of the Local Government Act 1972 (chairman to continue as a member until replaced);

"ordinary committee"—

(a) in relation to any relevant authority in England and Wales, means the authority's [F282]. . . social services committee or any other committee of the authority appointed under section 102(1)(a) of the Local Government Act 1972, not being a body to which section 15 of this Act applies by virtue of paragraph 2 above; and

(b) in relation to any relevant authority in Scotland, means [F283]. . . any committee of the authority appointed under section 57(1)(a) of the Local Government (Scotland) Act 1973;

"relevant authority"—

(a) in relation to England and Wales, means a local authority of any of the descriptions specified in **[**[F284]paragraphs (a) to (c), (f) or (h) to (j)**]** of section 21(1)of this Act; and

(b) in relation to Scotland, means a local authority;

and

"seat", in relation to a body to which section 15 of this Act applies, means such a position as a member of that body as—

(a) entitles the person holding the position to vote at meetings of the body on any question which falls to be decided at such a meeting; and

(b) in the case of a position as member of an advisory committee or of a sub-committee appointed by an advisory committee, is not a position which the authority or committee have determined must be filled by the appointment of a person who is not a member of the authority.

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(2) In this Schedule—

"ordinary sub-committee"—

(a) in relation to any relevant authority in England and Wales, means any sub-committee of the authority's [F285]. . . social services committee or any other sub-committee of that authority appointed under section102(1)(c) of the [M210]Local Government Act 1972 by an ordinary committee of that authority; and

(b) in relation to any relevant authority in Scotland, means any sub-committee of an ordinary committee;

"social services committee", in relation to any relevant authority in England and Wales, means any committee established by the authority under section 2 of the [M211]Local Authority Social Services Act 1970; [F286]. . .

[F286] . . ..

(3) References in this paragraph to voting include references to making use of a casting vote.

Textual Amendments

F281 Sch. 1 para. 4(1): definition of "education committee" repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 157(a)(ii), **Sch. 21 Pt. 2**; S.I. 1994/507, **art. 4 Sch. 2**

F282 Sch. 1 para. 4(1): Words in definition of "ordinary committee" repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 157(a)(i), **Sch. 21 Pt. II**; S.I. 1994/507, **art. 4 Sch. 2**

F283 Sch. 1 para. 4(1): words in definition of "ordinary committee" repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F284 Sch. 1 para. 4(1): words in definition of "relevant authority" substituted (1.10.1994 for certain purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. 1 para. 44(b)**; S.I. 1994/2025, **art. 6(1)(2)(g)**; S.I. 1994/3262, art. 4, **Sch.** (subject to transitional provision in art. 5)

F285 Sch. 1 para. 4(2): words in definition of "ordinary sub-committee" repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 157(b), **Sch. 21 Pt. 2**; S.I. 1994/507, **art. 4 Sch. 2**

F286 Sch. 1 para. 4(2): definition of "social work committee" and the word "and" immediately preceding it repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Marginal Citations

M208 1972 c. 70.

M209 1973 c. 65.

M210 1972 c. 70.

M211 1970 c. 42.

Supplemental regulation making power

5 Regulations under section 15 or 17 of this Act or under this Schedule may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

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PROSPECTIVE

SCHEDULE 2

Section 36.

LOCAL GOVERNMENT ACT 1972, SECTION 137, AS AMENDED

Power of local authorities to incur expenditure for certain purposes not otherwise authorised.

"137(1) A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of, and will bring direct benefit to, their area or any part of it or all or some of its inhabitants, but a local authority shall not, by virtue of this subsection, incur any expenditure—

(a) for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment; nor

(b) unless the direct benefit accruing to their area or any part of it or to all or some of the inhabitants of their area will be commensurate with the expenditure to be incurred.

(1A) In any case where—

(a) by virtue of paragraph (a) of subsection (1) above, a local authority are prohibited from incurring expenditure for a particular purpose, and

(b) the power or duty of the authority to incur expenditure for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),

the prohibition in that paragraph shall extend to all expenditure to which that power or duty would apply if it were not subject to any limitationor condition.

(2) It is hereby declared that the power of a local authority to incur expenditure under subsection (1) above includes power to do so by contributing towards the defraying of expenditure by another local authority in or in connection with the exercise of that other authority's functions.

(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 assistanceis 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.

(3) A local authority may, subject to the following provisions of this section, incur expenditure on contributions to any of the following funds, that is to say—

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(a) the funds of any charitable body in furtherance of its work in the United Kingdom; or

(b) the funds of any body which provides any public service (whether to the public as a whole or to any section of it) in the United Kingdom otherwise than for the purposes of gain; or

(c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by the Lord Mayor of London or the chairman of a principal council or by a committee of which the Lord Mayor of London or the chairman of a principal council is a member or by such a person or body as is referred to in section 83(3)(c) of the Local Government (Scotland) Act 1973.

(4) The expenditure of a local authority under this section in any financial year shall not exceed the amount produced by multiplying—

(a) such sum as is for the time being appropriate to the authority under subsection (4AA) below, by

(b) the relevant population of the authority's area.

(4AA) For the purposes of subsection (4)(a) above, except in so far as the Secretary of State by order specifies a different sum in relation to an authority of a particular description,—

(a) the sum appropriate to a county council or the council of a non-metropolitan district is £2.50;

(b) the sum appropriate to a metropolitan district council, a London borough council or the Common Council is £5.00; and

(c) the sum appropriate to a parish or community council is £3.50.

(4AB) For the purposes of subsection (4)(b) above the relevant population of a local authority's area shall be determined in accordance with regulations made by the Secretary of State; and a statutory instrument containing such regulations shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.

(4B) The amounts mentioned in subsection (4A) above are—

(a) the amount of any expenditure which forms part of the authority's gross expenditure for that year under this section and in respect of which any grant has been or is to be paid under any enactment by a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975 (whether or not the grant covers the whole of the expenditure);

(b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;

(c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure;

(d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the **[**F287EU**]**, in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section;

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(e) the amount of any repayment in that year of a loan under this section made by the authority in any year; and

(f) the amount of any expenditure—

(i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State; or

(ii) which is incurred by the authority in that year and is of a description so specified; or

(iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.

(5) A statutory instrument containing an order under this section may apply to all local authorities or may make different provision in relation to local authorities of different descriptions.

(6) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) The accounts of a local authority by whom expenditure is incurred under this section shall include a separate account of that expenditure, and section 24 of the Local Government Finance Act 1982 (rights of inspection) shall apply in relation to any such separate account of a local authority as it applies in relation to any statement of accounts prepared by them pursuant to regulations under section 23 of that Act.

(9) In this section "local authority" includes the Common Council."

Textual Amendments

F287 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

SCHEDULE 3

Sections 56, 58, 62 and 63.

PROVISIONS SUPPLEMENTING PART IV

Modifications etc. (not altering text)

C106 Sch. 3 applied (*temp.*) (with modifications) (4.5.1995) by S.I. 1995/1041, art. 2, **Sch. para. 5**
Sch. 3 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(2), **Sch. 7 Pt. II para. 5**

PART I

EFFECT OF OVERSPEND IN 1989-90 ON CREDIT APPROVALS

1 (1) If Part VIII of the [M212]Local Government, Planning and Land Act 1980 (in this Part of this Schedule referred to as "the 1980 Act") applied to the prescribed expenditure of a local authority for the financial year 1989-90, it shall be determined whether—

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(a) the total of the payment, made (or treated as made) in respect of that prescribed expenditure exceeded

(b) the aggregate of the amounts which, in relation to that authority, fell within paragraphs (a) to (e) of subsection (3) of section 72 of the 1980 Act for that financial year.

(2) If for any local authority there is such an excess as is referred to in sub-paragraph (1) above, it is in the following provisions of this Part of this Schedule referred to as the "1989-90 overspend"of the authority.

Marginal Citations
M212 1980 c. 65.

2 (1) Where a local authority have a 1989-90 overspend, their basic credit approval for the financial year 1990-91 shall be taken to be reduced or, as the case may be, extinguished by deducting from the approval an amount equal to the overspend.

(2) Any reduction or extinguishment of an authority's basic credit approval under this paragraph shall be regarded as taking place immediately after the approval is received by the authority.

3 (1) If a local authority's 1989-90 overspend exceeds their basic credit approval for the financial year 1990-91 (so that that approval is extinguished) the excess shall be applied in reduction (or extinguishment) of other basic credit approvals issued to the authority in the order in which they are received by the authority until the whole of the excess is so applied.

(2) Any reduction or extinguishment of an authority's basic credit approval under this paragraph shall be regarded as taking place immediately after the approval is received by the authority.

4 Not later than 30th September 1990, each local authority to the prescribed expenditure of which Part VIII of the 1980 Act applied for the financial year 1989-90 shall determine the amount of their 1989-90 overspend (if any).

5 In this Part of this Schedule—

(a) "prescribed expenditure" has the same meaning as in Part VIIIof the 1980 Act; and

(b) "the financial year 1989-90" means the financial year beginning on 1st April 1989 and "the financial year 1990-91" means that beginning on 1st April 1990.

PART II

NON-MONETARY CONSIDERATION RECEIVED BEFORE APRIL 1990

6 This Part of this Schedule applies in any case where—

(a) within the period beginning on 2nd February 1989 and ending on 31st March 1990 a local authority receive any consideration in respect of a disposal or the right to a repayment or payment; and

(b) the disposal occurs or the right to a repayment or payment arises on or after 2nd February 1989; and

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(c) if the consideration were received on 1st April 1990, section 61 of this Act would apply in relation to it.

7 (1) On the assumption that the consideration falling within paragraph 6 above was received by the local authority on 1st April 1990, there shall be determined, in accordance with section 61 of this Act, the amount of the notional capital receipt referable to the consideration and, from that, there shall be deducted so much (if any) of the consideration as is in money and is paid within the period referred to in paragraph 6(a) above.

(2) If the amount determined under sub-paragraph (1) above ("the non-monetary consideration") exceeds the payments (if any) in respect of prescribed expenditure which, in the case in question, the local authority are taken to make for the purposes of Part VIII of the [M213]Local Government, Planning and Land Act 1980, the local authority shall set aside,as provision to meet credit liabilities, the amount specified in sub-paragraph (3) below and that amount shall be so set aside on 1st April 1990 or, if it is later, at the time of the disposal or the assignment or waiver of the repayment or payment in question.

(3) Except in so far as regulations made or directions given by the Secretary of State otherwise provide, the amount referred to in sub-paragraph (2) above is that which, under section 59 of this Act, would be the reserved part of a capital receipt which—

(a) is of an amount equal to the excess referred to in that sub-paragraph; and

(b) is received in respect of a disposal or a right to a repayment or payment of the description in question.

Modifications etc. (not altering text)
C107 Sch. 3 para. 7(3) modified by S.I. 1990/432, **reg. 20(7)**

Marginal Citations
M213 1980 c. 65.

PART III

CREDIT CEILING

Modifications etc. (not altering text)
C108 Sch. 3 Pt. III (paras. 8–14) modified by S.I.1990/432, **reg. 24**
Sch. 3 Pt. III (paras. 8-14) applied (with modifications) (3.7.2000) by S.I. 2000/1474, **art. 2**

8 (1) Subject to any prescribed modifications, the credit ceiling of a local authority at 1st April 1990 (in this Schedule referred to as the authority's "initial credit ceiling") is the amount by which the aggregate of—

(a) so much of any advances made before that date from a loans fund established by the authority under paragraph 15 of Schedule 13 to the [M214]Local Government Act 1972 as has not been repaid before that date,and

(b) the total cost of the authority's transitional credit arrangements, as defined in section 52 of this Act, less such (if any) as may be excluded from this paragraph by regulations made by the Secretary of State,

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exceeds the total of the receipts which the authority are required to bring into account under paragraph 9 below; and, if there is no such excess, the authority's initial credit ceiling shall be nil or, as the case may be, a negative amount.

(2) In sub-paragraph (1) above "prescribed" means prescribed by regulations made by the Secretary of State.

Modifications etc. (not altering text)
C109 Sch. 3 para. 8 applied (with modifications) (3.7.2000) by S.I. 2000/1474, **art. 2**

Marginal Citations
M214 1972 c. 70.

9 (1) Subject to sub-paragraph (2) below, the receipts which a local authority are required to bring into account to determine their initial credit ceiling are the following 1980 Act receipts, namely,—

(a) those which on 1st April 1990 are required to be set aside as provision to meet credit liabilities; and

(b) those which, on or before 30th September 1990, the authority determine, in accordance with section 60(2) of this Act, to set aside as provision to meet credit liabilities.

(2) A local authority are not under sub-paragraph (1) above required to bring into account so much of any capital receipt as, in accordance with section 50(3) of this Act, is applied by the authority as provision to meet credit liabilities unless it is so applied in relation to a credit arrangement excluded by regulations under paragraph 11 below.

10 (1) At any time on or after 1st April 1990, a local authority's credit ceiling shall be determined, subject to any prescribed modifications, in accordance with the following provisions of this Part of this Schedule.

(2) In sub-paragraph (1) above "prescribed" means prescribed by regulations made by the Secretary of State.

11 (1) If, at any time on or after 1st April 1990, a credit approval is used by a local authority to any extent as mentioned in section 56(3) of this Act, then, subject to sub-paragraph (2) below, the authority's credit ceiling shall at that time be increased by an amount equal to the extent to which the credit approval is so used.

(2) If, in reliance on a credit approval, a local authority enter into or agree to the variation of a credit arrangement of a description excluded by regulations made by the Secretary of State under this paragraph, no account shall be taken under sub-paragraph (1) above of that use of the credit approval.

Modifications etc. (not altering text)
C110 Sch. 3 para. 11 modified by S.I. 1990/432, **reg. 21(2)**
C111 Sch. 3 para. 11(2) modified by S.I. 1990/432, **reg.22(1)–(3)**

12 (1) If, at any time on or after 1st April 1990, a local authority set aside an amount as provision to meet credit liabilities (whether or not pursuant to a requirement to do so) then, subject to sub-paragraph (2) below, the authority's credit ceiling shall at that

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time be reduced by an amount equal to the amount so set aside (and, by virtue of this paragraph, that ceiling may, accordingly, be a negative amount).

(2) This paragraph does not apply with respect to—

(a) an amount which, in relation to a credit arrangement, other than one excluded by regulations under paragraph 11 above, is applied or charged (as an amount of credit cover) as mentioned in paragraph (b) or paragraph (c) of subsection (3) of section 50 of this Act; or

(b) a 1980 Act receipt which, in accordance with paragraph 9 above, is brought into account to determine the authority's initial credit ceiling; or

(c) so much of an amount set aside under section 63 of this Act as provision to meet credit liabilities as (in accordance with Part IV of this Schedule) is referable to notional interest on credit arrangements.

(3) For the purposes of this paragraph, an amount set aside under subsection (1) of section 63 of this Act in respect of any financial year shall be treated as set aside on the last day of that year.

Modifications etc. (not altering text)
C112 Sch. 3 paras. 12–14 modified by S.I. 1990/432, **reg.21(2)**

13 If, at any time on or after 1st April 1990 a local authority apply or transfer under subsection (2) of section 64 of this Act an amount set aside as mentioned in subsection (1) of that section, the authority's credit ceiling shall at that time be increased by an amount equal to the amount so applied or transferred.

Modifications etc. (not altering text)
C113 Sch. 3 paras. 12–14 modified by S.I. 1990/432, **reg.21(2)**

14 (1) If, at any time on or after 1st April 1990, any debt of a local authority is reduced or extinguished by virtue of such a payment as is referred to insection 157(1)(b) of this Act, the authority's credit ceiling shall at that time be reduced by an amount equal to the reduction in the debt or, as the case may be, to the amount of the extinguished debt (and, by virtue of this paragraph, the credit ceiling may, accordingly, be a negative amount).

(2) If, at any time on or after 1st April 1990, a local authority are required under section 157(7)(b) of this Act to repay or pay any sum to the Secretary of State, the authority's credit ceiling shall at the time that sum is repaid or paid be increased by an amount equal to that sum.

Modifications etc. (not altering text)
C114 Sch. 3 paras. 12–14 modified by S.I. 1990/432, **reg.21(2)**

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PART IV

MINIMUM REVENUE PROVISION

15 (1) Subject to sub-paragraphs (2) and (3) below, for any financial year other than that beginning on 1st April 1990, a local authority's minimum revenue provision shall be the aggregate of—

(a) an amount in respect of principal which, except in so far as regulations made by the Secretary of State otherwise provide, shall be the prescribed percentage of the authority's adjusted credit ceiling on the last day of the immediately preceding year; and

(b) an amount in respect of notional interest on each credit arrangement entered into by the authority which came into being before the beginning of that year, other than an arrangement excluded by regulations under paragraph 11 above.

(2) If a local authority's credit ceiling on the last day of a financial year is nil or a negative amount, the authority's minimum revenue provision for the immediately following financial year shall be nil.

(3) In the case of a credit arrangement falling within section 49(3) of this Act, the Secretary of State may by regulations provide that the amount referred to in sub-paragraph (1)(b) above is nil.

16 (1) Subject to sub-paragraphs (2) and (3) below, for the financial year beginning on 1st April 1990, a local authority's minimum revenue provision shall be the aggregate of—

(a) an amount in respect of principal which, except in so far as regulations made by the Secretary of State otherwise provide, shall be the prescribed percentage of the authority's adjusted initial credit ceiling; and

(b) an amount in respect of notional interest on each transitional credit arrangement entered into by the authority, other than an arrangement excluded by regulations under paragraph 11 above.

(2) If a local authority's initial credit ceiling is nil or a negative amount,the authority's minimum revenue provision for the financial year referred to in sub-paragraph (1) above shall be nil.

(3) In the case of a transitional credit arrangement falling within section 49(3) of this Act, the Secretary of State may by regulations provide that the amount referred to in sub-paragraph (1)(b) above is nil.

17 In paragraphs 15(1)(a) and 16(1)(a) above "the prescribed percentage" means such percentage, which maybe any percentage from nil to 100, as may be prescribed by regulations madeby the Secretary of State; and different percentages may be so prescribed in relation to different amounts taken into account in determining an authority's adjusted credit ceiling or initial credit ceiling.

18 (1) Any reference in this Part of this Schedule to an authority's adjusted credit ceiling at any time or their adjusted initial credit ceiling is areference to their credit ceiling or, as the case may be, initial credit ceiling, determined in accordance with Part III of this Schedule as modified, in such manner as the Secretary of State considers appropriate, by regulations made by him for the purposes of this Part of this Schedule.

(2) Without prejudice to the generality of sub-paragraph (1) above, for the purpose of determining an authority's adjusted credit ceiling or adjusted initial credit ceiling

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at any time, regulations under this paragraph may require amounts which are taken into account in determining the authority'scredit ceiling or initial credit ceiling to be treated as having been repaid, in whole or in part, by reference to amounts set aside as provision for credit liabilities and also, in such cases as may be specified in the regulations, may require a local authority to determine which of the amounts so taken into account are to be treated as so repaid.

19 (1) Subject to paragraphs 15(3) and 16(3) above, for any financial year, the amount referred to in paragraph 15(1)(b) or paragraph 16(1)(b) above in respect of notional interest on a credit arrangement is that determined by the formula—

$$\frac{a \times b}{100}$$

where, subject to sub-paragraphs (2) and (3) below,—

"a" is the cost of the arrangement on 1st April in that financial year; and

"b" is the percentage rate of discount prescribed under section49(2) of this Act for the financial year in which the arrangement came into being or, in the case of a transitional credit arrangement, for the financial year beginning on 1st April 1990.

(2) In the case of a credit arrangement which has been varied as mentioned insection 51(1) of this Act, "b" in the formula in sub-paragraph (1) above is the percentage rate of discount prescribed under section 49(2) of this Act for the financial year in which the arrangement was so varied or, as the case may be, last varied.

(3) In the case of a credit arrangement falling within section 49(3) of this Act, the Secretary of State may by regulations provide that "b" in the formula in sub-paragraph (1) above shall be such figure as may be specified in, or determined under, the regulations.

20 Regulations under this Part of this Schedule—

(a) may make provision by reference to amounts determined by local authorities in respect of particular financial years; and

(b) may require such determinations to be made within such time limits as maybe specified in the regulations.

SCHEDULE 4

Section 75.

THE KEEPING OF THE HOUSING REVENUE ACCOUNT

PART I

CREDITS TO THE ACCOUNT

For each year a local housing authority who are required to keep a Housing Revenue Account ("the account") shall carry to the credit of the account amounts equal to the items listed in this Part of this Schedule.

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Item 1: rents

The income of the authority for the year from rents and charges in respect of houses and other property within the account.

This item includes rent remitted by way of rebate.

Item 2: charges for services and facilities

The income of the authority for the year in respect of services or facilities provided by them in connection with the provision by them of houses and other property within the account—

(a) including income in respect of services or facilities provided under sections 10 and 11 of the [M215]Housing Act 1985 (power to provide furniture, board and laundry facilities); but

(b) not including payments for the purchase of furniture or hire-purchase instalments for furniture.

Marginal Citations
M215 1985 c. 68.

If the Secretary of State so directs, this item shall include, or not include, such income as may be determined by or under the direction **[**[F288]or income in respect of services provided under section 11A of that Act (power to provide welfare services)**]**.

Textual Amendments
F288 Sch. 4 Pt. 1 shall have effect, and be deemed always to have had effect as if words in item 2 para. (b) were inserted, by 1993 c. 28, **ss.127(a)**, 128

Item 3: Housing Revenue Account subsidy

Housing Revenue Account subsidy payable to the authority for the year.

Item 4: contributions towards expenditure

Contributions of any description payable to the authority for the year towards expenditure falling to be debited to the account (for that or any other year).

If the Secretary of State so directs, this item shall not include so much of any such contributions as may be determined by or under the direction.

Item 5: housing benefit transfers

Sums transferred for the year from some other revenue account of theauthority in accordance with section 30(6) of the [M216]Social Security Act 1986 (housing benefit transfers).

Marginal Citations
M216 1986 c. 50.

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Item 6: transfers from the Housing Repairs Account

Sums transferred for the year from the authority's Housing Repairs Account in accordance with section 77(5) of this Act (credit balance for year).

Item 7: reduced provision for bad or doubtful debts

The following, namely—

(a) any sums debited to the account for a previous year under paragraph (a) of item 7 of Part II of this Schedule which have been recovered by the authority during the year; and

(b) any amount by which, in the opinion of the authority, any provision debited to the account for a previous year under paragraph (b) of that item should be reduced.

If the Secretary of State so directs, no sums shall be credited under paragraph (a) above, and no amount shall be credited under paragraph (b)above, except (in either case) in such circumstances and to such extent as maybe specified in the direction.

Item 8: sums calculated as determined by Secretary of State

Sums calculated for the year in accordance with such formulae as the Secretary of State may from time to time determine.

In determining any formula for the purposes of this item, the Secretary of State may include variables framed (in whatever way he considers appropriate) by reference to such matters relating to the authority, or to (or to tenants of) houses and other property which are or have been within the account, as he thinks fit.

[F289*Item 9: sums directed by Secretary of State****][F289****Item 9: sums directed by Secretary of State or National Assembly for Wales****]***

Textual Amendments

F289 Sch. 4 Pt. 1 Item 9 substituted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 33(3)**; S.I. 2003/2938, **art. 3(a)** (with art. 8, Sch.); S.I. 2003/3034, art. 2, **Sch. 1 Pt. I** (with Sch. 2 para. 5)

[F289 Any sums which for the year the Secretary of State directs the authority to carry to the credit of the account from some other revenue account of theirs.**][F289**Any sums which for the year the authority is required, by reason of a direction given by the appropriate person, to carry to the credit of the account from some other revenue account of theirs.

A direction under this item may require the transfer of sums calculated in accordance with formulae specified in the direction, and any formula so specified may include variables framed (in whatever way the appropriate person considers appropriate) by reference to such matters as the appropriate person thinks fit.**]**

Item 10: credit balance from previous year

Any credit balance shown in the account for the previous year.

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This item does not include so much of any such balance so shown as is carried to the credit of some other revenue account of the authority in accordance with paragraph 1 or 2 of Part III of this Schedule.

PART II

DEBITS TO THE ACCOUNT

For each year a local housing authority who are required to keep a Housing Revenue Account ("the account") shall carry to the debit of the account amounts equal to the items listed in this Part of this Schedule.

Item 1: expenditure on repairs, maintenance and management

The expenditure of the authority for the year in respect of the repair, maintenance, supervision and management of houses and other property within the account, but not including expenditure properly debited to the authority's Housing Repairs Account.

If the Secretary of State so directs, this item shall include, or not include, such expenditure as may be determined by or under the direction.

Item 2: expenditure for capital purposes

Any expenditure of the authority in respect of houses and other property within the account which—

(a) is capital expenditure (other than excluded expenditure) for the year; or

(b) is excluded expenditure for the year, or any previous or subsequent year, which the authority decide should be charged to a revenue account for the year.

In this item "capital expenditure" means expenditure for capital purposes within the meaning of Part IV of this Act and "excluded expenditure" means expenditure excluded from the obligation in section 41(1) of this Act.

Item 3: rents, rates, taxes and other charges

The rents, rates, taxes and other charges which the authority are liable to pay for the year in respect of houses and other property within the account.

Item 4: rent rebates

The rent rebates granted for the year to tenants of houses and other property within the account.

Item 5: sums transferred under section 80(2)

Sums transferred for the year to some other revenue account of the authority in accordance with section 80(2) of this Act (Housing Revenue Account subsidy of a negative amount).

Item 6: contributions to Housing Repairs Account

Sums transferred for the year to the authority's Housing RepairsAccount.

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Item 7: provision for bad or doubtful debts

The following, namely—

(a) any sums credited to the account for the year or any previous year under item 1 or 2 of Part I of this Schedule which, in the opinion of the authority, are bad debts which should be written off; and

(b) any provision for doubtful debts which, in their opinion, should be made in respect of sums so credited.

If the Secretary of State so directs, no sums shall be debited under paragraph (a) above, and no provision shall be debited under paragraph (b)above, except (in either case) in such circumstances and to such extent as maybe specified in the direction.

Item 8: sums calculated as determined by Secretary of State

Sums calculated for the year in accordance with such formulae as the Secretary of State may from time to time determine.

In determining any formula for the purposes of this item, the Secretary of State may include variables framed (in whatever way he considers appropriate) by reference to such matters relating to the authority, or to (or to tenants of) houses or other property which are or have been within the account, as he thinks fit.

Item 9: debit balance from previous year

Any debit balance shown in the account for the previous year.

This item does not include any such balance so shown which is carried to the debit of some other revenue account of the authority in accordance with paragraph 1 of Part III of this Schedule.

I[F290 Item 10: sums directed by Secretary of State or National Assembly for Wales

Textual Amendments

F290 Sch. 4 Pt. 2 Item 10 inserted (18.11.2003 for E. and 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1.4.2004) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 7 para. 33(5)**; S.I. 2003/2938, **art. 3(a)** (with art. 8, Sch.); S.I. 2003/3034, art. 2, **Sch. 1 Pt. I**

Any sums which for the year the authority is required, by reason of a direction given by the appropriate person, to carry from the account to the credit of some other revenue account of theirs.

A direction under this item may require the transfer of sums calculated in accordance with formulae specified in the direction, and any formula so specified may include variables framed (in whatever way the appropriate person considers appropriate) by reference to such matters as the appropriate person thinks fit.

In giving a direction under this item, the appropriate person may (in particular) take into account the effect of such a direction on—

(a) other revenue accounts in the authority's relevant fund,

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(b) the amounts of council tax falling to be set by the authority under section 30 of the Local Government Finance Act 1992, and

(c) the authority's budget requirement under section 32(4) of that Act.

In this item the reference to the authority's "relevant fund" is—

(a) in relation to England, to the authority's general fund within the meaning of section 91(2) of the Local Government Finance Act 1988, and

(b) in relation to Wales, to the authority's council fund within the meaning of section 38(1) of the Local Government (Wales) Act 1994.**]**

PART III

SPECIAL CASES

Balance for year 1989-90

1 (1) The following, namely—

(a) any debit balance shown in a local housing authority's Housing Revenue Account for the year beginning 1st April 1989;

(b) so much of any credit balance so shown as exceeds the limit mentioned in sub-paragraph (2) below,

shall be carried forward and debited or credited, as the case may require, not to their Housing Revenue Account for the year beginning 1st April 1990 but to some other revenue account of theirs for that year.

(2) The limit referred to in sub-paragraph (1) above is £150 multiplied by the number of dwellings in the authority's Housing Revenue Account on 31st March 1990 or £5 million, whichever is the lesser amount.

Credit balance where no HRA subsidy payable

2 A local housing authority to whom no Housing Revenue Account subsidy is payable for any year may carry the whole or part of any credit balance shown in their Housing Revenue Account for that year to the credit of some other revenue account of theirs.

Amenities shared by the whole community

3 (1) Where benefits or amenities—

(a) arising from the exercise of a local housing authority's functions under Part II of the [M217]Housing Act 1985 (provision of housing); and

(b) provided for persons housed by the authority,

are shared by the community as a whole, the authority shall make such contributions to their Housing Revenue Account from some other revenue account of theirs as, having regard to the amounts of the contributions and the period over which they are made, will properly reflect the community's share of the benefits or amenities.

(2) The Secretary of State may give such directions as he considers appropriate as to the performance by local housing authorities of their duty under sub-paragraph (1) above.

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(3) Where it appears to the Secretary of State that an authority have failed to comply with sub-paragraph (1) above or any directions under sub-paragraph (2) above, he may give them such directions as appear to him appropriate to ensure compliance.

(4) A direction under sub-paragraph (3) above may contain particulars as to the amounts of the contributions and the years for which they are to be made.

Marginal Citations
M217 1985 c. 68.

[F291 Provision of welfare services]

Textual Amendments
F291 Sch. 4 Pt. 3 shall have effect, and be deemed always to have had effect as if paragraph 3A and crossheading were inserted after paragraph 3, by 1993 c. 28, **ss. 127(b)**, 128

F292 3A (1) This paragraph applies where in any year a local housing authority provide welfare services (within the meaning of section 11A of the M218 Housing Act 1985) for persons housed by them in houses or other property within their Housing Revenue Account.

(2) The authority may carry to the credit of the account—

(a) an amount equal to the whole or any part of the income of the authority for the year from charges in respect of the provision of those services;

(b) any sum from some other revenue account of theirs which represents the whole or any part of that income.

(3) The authority may carry to the debit of the account—

(a) an amount equal to the whole or any part of the expenditure of the authority for the year in respect of the provision of those services;

(b) any sum from some other revenue account of theirs which represents the whole or any part of that expenditure.

Textual Amendments
F292 Sch. 4 Pt. 3 shall have effect, and be deemed always to have had effect as if paragraph 3A and crossheading were inserted at the end of paragraph 3, by 1993 c. 28, **ss. 127(b)**, 128

Marginal Citations
M218 1985 c. 68.

Land disposed of at less than market value

4 The Secretary of State in giving his consent under any enactment for the disposal at less than market value of land within their Housing Revenue Account may impose a condition requiring the authority to make a contribution to the account from some other revenue account of theirs for such years and of such amount, or of any amount calculated in such manner, as he may determine.

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Adjustment of accounts on appropriation of land

5 (1) Where land is appropriated by a local housing authority for the purposes of Part II of the [M219]Housing Act 1985 (provision of housing), or on the discontinuance of use for those purposes, such adjustment shall be made in the Housing Revenue Account, the Housing Repairs Account and other revenue accounts of the authority as the Secretary of State may direct.

(2) Except where sub-paragraph (1) above applies, any direction given under section 24 of the [M220]Town and Country Planning Act 1959 (adjustment of accounts on appropriation of land) concerning the Housing Revenue Account of a local housing authority shall apply in relation to the account to be kept under section 74 of this Act as it would have applied tothe account to be kept under section 50 of the [M221]Housing (Financial Provisions) Act 1958.

Marginal Citations
M219 1985 c. 68.
M220 1959 c. 53.
M221 1958 c. 42.

Transfers of housing stock between authorities in London

6 (1) Where houses and other property within the Housing Revenue Account have been transferred from one authority to another under section 23(3) of the [M222]London Government Act 1963 (orders transferring land held by London borough council or Common Council of City of London), the Secretary of State may by order direct, for any of the purposes of this Part of this Act—

(a) within whose Housing Revenue Account the transferred houses and property are to be treated as falling; and

(b) how relevant items are to be treated in the Housing Revenue Accounts of the authorities to whom the order applies.

(2) The order may be made to apply to a description of local housing authorities specified in the order or to a specified local housing authority, and may make different provision in respect of different years or for different purposes in relation to the same year.

(3) An order under this paragraph may amend an order made under section 23(3)of the London Government Act 1963 and may provide that one authority shall pay to another in respect of houses and property to which it relates such amounts calculated by such methods and in respect of such items and such years as appear to the Secretary of State to be appropriate.

(4) An order under this paragraph—

(a) shall be made by the Secretary of State with the concurrence of the Treasury, and

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

(5) Before making an order under this paragraph, the Secretary of State shall consult such representatives of local government as appear to him to be appropriate; and, before

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making an order applying to a particular local housing authority, he shall consult that authority.

Marginal Citations
M222 1963 c. 33.

Contributions in respect of land in certain areas

7 Where a contribution under—

(a) section 259 of the Housing Act 1985 (contributions by Secretary of State towards expenditure on general improvement area); or

(b) section 96 of this Act (contributions by Secretary of State towards expenditure on renewal area),

has been paid towards expenditure incurred by a local housing authority in relation to land held by them for the purposes of Part II of that Act (provision of housing), neither the expenditure nor the contribution shall be carried to the Housing Revenue Account except with the consent of the Secretary of State.

PART IV

SUPPLEMENTARY PROVISIONS

Duty to supply information

1 (1) A local housing authority, and any officer or employee of a local housing authority concerned with their housing functions, shall supply the Secretary of State with such information as he may specify, either generally or in any particular case, for the purpose of enabling the Secretary of State to ascertain the state or likely state of the authority's Housing Revenue Account for any year.

(2) A local housing authority shall supply the Secretary of State with such certificates supporting the information required by him as he may specify.

Directions excluding or modifying statutory provisions

2 (1) The Secretary of State may, as respects any houses or other property within the Housing Revenue Account, direct that all or any of the provisions of this Part of this Act relating to the account shall not apply, or shall apply subject to such modifications as may be specified in the direction.

(2) The Secretary of State may direct that the provisions of this Part of this Act relating to the Housing Revenue Account shall apply to a local housing authority subject to such modifications as are specified in the direction.

(3) A direction may be given for such period and subject to such conditionsas may be specified in the direction.

Orders amending statutory provisions

F293 3 . . . . . .

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Textual Amendments

F293 Sch. 4 Pt. 4 para. 3 repealed (18.11.2003) by Local Government Act 2003 (c. 26), ss. 91(2), 128(2), **Sch. 8 Pt. 1**

SCHEDULE 5

Section 139.

LOCAL GOVERNMENT FINANCE ACT 1988: AMENDMENTS

Introduction

1 The [M223]Local Government Finance Act 1988 shall be amended as mentioned in the following provisions of this Schedule.

Marginal Citations

M223 1988 c. 41.

Community charges

[F294]2 . . . . . .

Textual Amendments

F294 Sch. 5 paras. 2-18 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

[F295]3 . . . . . .

Textual Amendments

F295 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

[F296]4 . . . . . .

Textual Amendments

F296 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

[F297]5 . . . . . .

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Textual Amendments

F297 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F298 6 . . . . . .

Textual Amendments

F298 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F299 7 . . . . . .

Textual Amendments

F299 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

F300 8 . . . . . .

Textual Amendments

F300 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F301 9 . . . . . .

Textual Amendments

F301 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

F302 10 . . . . . .

Textual Amendments

F302 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F303 11 . . . . . .

Textual Amendments

F303 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F304 12 . . . . . .

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Textual Amendments

F304 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F305 13 . . . . . .

Textual Amendments

F305 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

Charges and multipliers

F306 14 . . . . . .

Textual Amendments

F306 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch.14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F307 15 . . . . . .

Textual Amendments

F307 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F308 16 . . . . . .

Textual Amendments

F308 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

F309 17 . . . . . .

Textual Amendments

F309 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F310 18 . . . . . .

Textual Amendments

F310 Sch. 5 paras. 2-18 repealed (1.4.1993) by 1992 c. 14 s. 117(2), Sch. 14 (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

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Non-domestic rating

19 In section 41 (local rating lists) the following subsections shall be inserted after subsection (6)—

"(6A) As soon as is reasonably practicable after compiling a list the valuation officer shall send a copy of it to the authority.

(6B) As soon as is reasonably practicable after receiving the copy the authority shall deposit it at its principal office."

20 In section 42 (contents of local lists) in subsection (4) for paragraphs (a) and (b) there shall be substituted " the rateable value of the hereditament ".

21 (1) Section 44 (occupied hereditaments: supplementary) shall be amended as follows.

(2) In subsection (2) the words from "or" to the end shall be omitted.

(3) Subsection (3) shall be omitted.

22 The following section shall be inserted after section 44—

"**44A Partly occupied hereditaments.**

(1) Where a hereditament is shown in a charging authority's local non-domestic rating list and it appears to the authority that part of the hereditament is unoccupied but will remain so for a short time only the authority may require the valuation officer for the authority to apportion the rateable value of the hereditament between the occupied and unoccupied parts of the hereditament and to certify the apportionment to the authority.

(2) The reference in subsection (1) above to the rateable value of the hereditament is a reference to the rateable value shown under section 42(4) above as regards the hereditament for the day on which the authority makes its requirement.

(3) For the purposes of this section an apportionment under subsection (1) above shall be treated as applicable for any day which—

(a) falls within the operative period in relation to the apportionment, and

(b) is a day for which the rateable value shown under section 42(4) above as regards the hereditament to which the apportionment relates is the same as that so shown for the day on which the authority requires the apportionment.

(4) References in this section to the operative period in relation to an apportionment are references to the period beginning—

(a) where requiring the apportionment does not have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day on which the hereditament to which the apportionment relates became partly unoccupied, and

(b) where requiring the apportionment does have the effect of bringing to an end the operative period in relation to a previous apportionment under subsection (1) above, with the day immediately following the end of that period,

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and ending with the first day on which one or more of the events listed below occurs.

(5) The events are—

(a) the occupation of any of the unoccupied part of the hereditament to which the apportionment relates;

(b) the ending of the rate period in which the authority requires the apportionment;

(c) the requiring of a further apportionment under subsection (1) above in relation to the hereditament to which the apportionment relates;

(d) the hereditament to which the apportionment relates becoming completely unoccupied.

(6) Subsection (7) below applies where—

(a) a charging authority requires an apportionment under subsection (1) above,and

(b) the hereditament to which the apportionment relates does not fall within a class prescribed under section 45(1)(d) below.

(7) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—

(2) A is such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament.

(2A) In subsection (2) above "the relevant apportionment" means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.

(8) Subsection (9) below applies where—

(a) a charging authority requires an apportionment under subsection (1) above,and

(b) the hereditament to which the apportionment relates falls within a class prescribed under section 45(1)(d) below.

(9) In relation to any day for which the apportionment is applicable, section 43 above shall have effect as regards the hereditament as if the following subsections were substituted for section 44(2)—

(2) A is the sum of—

(a) such part of the rateable value shown for the day under section 42(4) above as regards the hereditament as is assigned by the relevant apportionment to the occupied part of the hereditament, and

(b) one half of such part of that rateable value as is assigned by the relevant apportionment to the unoccupied part of the hereditament.

(2A) In subsection (2) above "the relevant apportionment" means the apportionment under section 44A(1) below which relates to the hereditament and is treated for the purposes of section 44A below as applicable for the day.

(10) References in subsections (1) to (5) above to the hereditament, in relation to a hereditament which is partly domestic property or partly exempt from

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local non-domestic rating, shall, except where the reference is to the rateable value of the hereditament, be construed as references to such part of the hereditament as is neither domestic property nor exempt from local non-domestic rating."

23 (1) Section 45 (unoccupied hereditaments: liability) shall be amended as follows.

(2) In subsection (1)(d) for "description" there shall be substituted " class ".

(3) The following subsections shall be inserted after subsection (8)—

"(9) For the purposes of subsection (1)(d) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.

(10) Without prejudice to the generality of subsection (9) above, a class maybe prescribed by reference to one or more of the following factors—

(a) the physical characteristics of hereditaments;

(b) the fact that hereditaments have been unoccupied at any time preceding the day mentioned in subsection (1) above;

(c) the fact that the owners of hereditaments fall within prescribed descriptions."

24 In section 46 (unoccupied hereditaments: supplementary) in subsection (2) the words from "or" to the end shall be omitted.

25 The following section shall be inserted after section 46—

"**46A Unoccupied hereditaments: new buildings.**

(1) Schedule 4A below (which makes provision with respect to the determination of a day as the completion day in relation to a new building) shall have effect.

(2) Where—

(a) a completion notice is served under Schedule 4A below, and

(b) the building to which the notice relates is not completed on or before the relevant day,

then for the purposes of section 42 above and Schedule 6 below the building shall be deemed to be completed on that day.

(3) For the purposes of subsection (2) above the relevant day in relation to a completion notice is—

(a) where an appeal against the notice is brought under paragraph 4 of Schedule 4A below, the day stated in the notice, and

(b) where no appeal against the notice is brought under that paragraph, the day determined under that Schedule as the completion day in relation to the building to which the notice relates.

(4) Where—

(a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and

(b) the building is not occupied on that day,

it shall be deemed for the purposes of section 45 above to become unoccupied on that day.

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(5) Where—

(a) a day is determined under Schedule 4A below as the completion day in relation to a new building, and

(b) the building is one produced by the structural alteration of an existing building,

the hereditament which comprised the existing building shall be deemed for the purposes of section 45 above to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this section—

(a) "building" includes part of a building, and

(b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes,or becomes part of, a different hereditament or different hereditaments."

26 (1) Section 47 (discretionary relief) shall be amended as follows.

(2) In subsection (1)(b) for "regulations under section 57 below or regulations under section 58 below" there shall be substituted " regulations under section 58 below or any provision of or made under Schedule 7A below ".

(3) In subsection (5) for "57 or 58 below" there shall be substituted " 58 below and of any provision of or made under Schedule 7A below ".

27 In section 49 (reduction or remission of liability) in subsection (3) for the words from "and the effect" to the end of the subsection there shall be substituted " , the effect of any regulations under section 58 below, and the effect of any provision of or made under Schedule 7A below. "

28 In section 52 (central rating lists) the following subsections shall be inserted after subsection (6)—

"(6A) As soon as is reasonably practicable after compiling a list the central valuation officer shall send a copy of it to the Secretary of State.

(6B) As soon as is reasonably practicable after receiving the copy the Secretary of State shall deposit it at his principal office."

29 (1) Section 53 (contents of central lists) shall be amended as follows.

(2) In subsection (1) for "a description" there shall be substituted " one or more descriptions ".

(3) In subsection (2)(b) for "the" there shall be substituted " any ".

(4) For subsection (4) there shall be substituted the following subsections—

"(4) Where regulations are for the time being in force under this section prescribing a description of non-domestic hereditament in relation to a person designated in the regulations ("the previously designated person"), amending regulations altering the designated person in relation to whom that description of hereditament is prescribed may have effect from a date earlier than that on which the amending regulations are made.

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(4A) Where, by virtue of subsection (4) above, the designated person in relation to any description of non-domestic hereditament is changed from a date earlier than the making of the regulations,—

(a) any necessary alteration shall be made with effect from that date to a central non-domestic rating list on which any hereditament concerned is shown; and

(b) an order making the provision referred to in paragraph 3(2) of Schedule 6 below and specifying a description of hereditament by reference to the previously designated person shall be treated, with effect from that date, as referring to the person designated by the amending regulations."

30 (1) Section 55 (alteration of lists) shall be amended as follows.

(2) In subsection (4) (content of regulations)—

(a) in paragraph (b) after "as to the" there shall be inserted " manner and " and at the end there shall be added " and the information to be included in a proposal ";

(b) in paragraph (d) for "making" there shall be substituted " andsubsequent to the making of "; and

(c) after paragraph (d) there shall be inserted—

"(dd) as to the circumstances within which and the conditions upon which a proposal may be withdrawn".

(3) In subsection (5) (regulations about appeals), for the words from "about" to "its alteration" there shall be substituted "between a valuation officer and another person making a proposal for the alteration of a list—

(a) about the validity of the proposal; or

(b) about the accuracy of the list".

F311(4) . . . . . .

(5) The following subsection shall be inserted after subsection (7)—

"(7A) The regulations may include provision that—

(a) where a valuation officer for a charging authority has informed the authority of an alteration of a list a copy of which has been deposited by the authority under section 41(6B) above, the authority must alter the copy accordingly;

(b) where the central valuation officer has informed the Secretary of State of an alteration of a list a copy of which has been deposited under section 52(6B) above, the Secretary of State must alter the copy accordingly."

Textual Amendments

F311 Sch. 5 para. 30(4) repealed (1.8.1992) by Local Government Finance Act 1992 (c. 14), s. 119(2), **Sch. 14**; S.I. 1992/1755, **art. 2(1)**

31 The following section shall be substituted for section 57 (special provision for 1990-95)—

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"**57 Special provision for 1990-95.**

Schedule 7A below (which contains special provision for 1990–95) shall have effect."

32 The following section shall be substituted for section 59—

"**59 Contributions in aid.**

Where a contribution in aid of non-domestic rating is made in respect of a Crown hereditament, the contribution shall be paid to the Secretary of State."

F312 33 . . . . . .

Textual Amendments

F312 Sch. 5 para. 33 repealed (1.4.2000) by 1997 c. 29, s. 33(2), **Sch. 4**; S.I. 1998/2329, **art. 3**

34 In section 65 (owners and occupiers) the following subsection shall be inserted after subsection (8)—

"(8A) In a case where—

(a) land consisting of a hereditament is used (permanently or temporarily) for the exhibition of advertisements or for the erection of a structure used for the exhibition of advertisements,

(b) section 64(2) above does not apply, and

(c) apart from this subsection, the hereditament is not occupied,

the hereditament shall be treated as occupied by the person permitting it to be so used or, if that person cannot be ascertained, its owner."

35 (1) Section 67 (interpretation etc.) shall be amended as follows.

F313 (2) . . . . . .

(3) The following subsection shall be inserted after subsection (9) (power toshow class of hereditament in central non-domestic rating list)—

"(9A) In subsection (9) above "class" means a class expressed by reference to whether hereditaments—

(a) are occupied or owned by a person designated under section 53(1) above,and

(b) fall within any description prescribed in relation to him under section53(1)."

Textual Amendments

F313 Sch. 5 para. 35(2) repealed (1.4.2000) by 1997 c. 29, ss. 33(2), 34(1), **Sch. 4**; S.I. 1998/2329, **art. 3**

36 The following Schedule shall be inserted after Schedule 4—

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"SCHEDULE
4A

NON-DOMESTIC RATING: NEW BUILDINGS (COMPLETION DAYS)

Completion notices

1 (1) If it comes to the notice of a charging authority that the work remaining to be done on a new building in its area is such that the building can reasonably be expected to be completed within 3 months, the authority shall serve a notice under this paragraph on the owner of the building as soon as is reasonably practicable unless the valuation officer otherwise directs in writing.

(2) If it comes to the notice of a charging authority that a new building in its area has been completed, the authority may serve a notice under this paragraph on the owner of the building unless the valuation officer otherwise directs in writing.

(3) A charging authority may withdraw a notice under this paragraph by serving on the owner of the building to which the notice relates a subsequent notice under this paragraph.

(4) Where an appeal under paragraph 4 below has been brought against a notice under this paragraph, the power conferred by sub-paragraph (3) above shall only be exercisable with the consent in writing of the owner of the building to which the notice relates.

(5) The power conferred by sub-paragraph (3) above shall cease to be exercisable in relation to a notice under this paragraph once a day has been determined under this Schedule as the completion day in relation to the building to which the notice relates.

(6) In this Schedule "completion notice" means a notice under this paragraph.

2 (1) A completion notice shall specify the building to which it relates and state the day which the authority proposes as the completion day in relation to the building.

(2) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is not completed, the authority shall propose as the completion day such day, not later than 3 months from and including the day on which the notice is served, as the authority considers is a day by which the building can reasonably be expected to be completed.

(3) Where at the time a completion notice is served it appears to the authority that the building to which the notice relates is completed, the authority shall propose as the completion day the day on which the notice is served.

Determination of completion day

3 (1) If the person on whom a completion notice is served agrees in writing with the authority by whom the notice is served that a day specified by the agreement shall be the completion day in relation to the building, that day shall be the completion day in relation to it.

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(2) Where such an agreement as is mentioned in sub-paragraph (1) above is made, the completion notice relating to the building shall be deemed to have been withdrawn.

4 (1) A person on whom a completion notice is served may appeal to a valuation and community charge tribunal against the notice on the ground that the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the day stated in the notice.

(2) Where a person appeals against a completion notice and the appeal is not withdrawn or dismissed, the completion day shall be such day as the tribunal shall determine.

5 Where a completion notice is not withdrawn and no appeal under paragraph 4 above is brought against the notice or any appeal under that paragraph is dismissed or withdrawn, the day stated in the notice shall be the completion day in relation to the building.

Position pending appeal

6 (1) Where an appeal under paragraph 4 above is brought against a completion notice, then in relation to any day on which the appeal is pending section 45 above shall apply by virtue of section 46A(4) above as if the day stated in the notice had been determined under this Schedule as the completion day in relation to the building to which the notice relates.

(2) The Secretary of State may make regulations providing for the making of financial adjustments where sub-paragraph (1) applies but the day stated in the completion notice is not actually determined as the completion day in relation to the building to which the notice relates.

(3) Regulations under sub-paragraph (2) above may include—

(a) provision requiring payments to be made,

(b) provision requiring payments to be made together with payments of interest, and

(c) provision as to the recovery (by deduction or otherwise) of sums due.

(4) For the purpose of deciding, for the purposes of this paragraph, whether an appeal is pending on a particular day, the state of affairs existing immediately before the day ends shall be treated as having existed throughout the day.

Duty to inform valuation officer

7 (1) A charging authority shall supply to the valuation officer a copy of any completion notice served by it.

(2) If a charging authority withdraws a completion notice, it shall inform the valuation officer of that fact.

(3) A charging authority shall supply the valuation officer with details of any agreement to which it is a party and by virtue of which a completion day is determined under this Schedule in relation to a building.

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Supplementary

8 Without prejudice to any other mode of service, a completion notice maybe served on a person—

(a) by sending it in a prepaid registered letter, or by the recorded delivery service, addressed to that person at his usual or last known place of abode or, in a case where an address for service has been given by that person, at that address;

(b) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter or by the recorded delivery service addressed to the secretary or clerk of the company or body at that office; or

(c) where the name or address of that person cannot be ascertained after reasonable inquiry, by addressing it to him by the description of "owner"of the building (describing it) to which the notice relates and by affixing it to some conspicuous part of the building.

9 (1) This paragraph applies in the case of a building to which work remains to be done which is customarily done to a building of the type in question after the building has been substantially completed.

(2) It shall be assumed for the purposes of this Schedule that the building has been or can reasonably be expected to be completed at the end of such period beginning with the date of its completion apart from the work as is reasonably required for carrying out the work.

10 (1) Section 46A(6) applies for the purposes of this Schedule.

(2) In this Schedule—

"completion notice" has the meaning given by paragraph 1(6) above;

"owner", in relation to a building, means the person entitled to possession of the building;

references to the valuation officer, in relation to a charging authority, are references to the valuation officer for the authority."

37 (1) Schedule 5 (exemptions) shall be amended as follows.

(2) In paragraph 7 (agricultural buildings) in each of sub-paragraphs (1)(b) **[**[F314]and (3)**]**, for "(together with the body)" there shall be substituted " or are together with the body ".

(3) In paragraph 9 (exemption for fish farms) the following shall be inserted after sub-paragraph (4)—

"(4A) But an activity does not constitute fish farming if the fish or shell fish are or include fish or shellfish which—

(a) are purely ornamental, or

(b) are bred, reared or cultivated for exhibition."

(4) After paragraph 18 there shall be inserted—

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" Road crossings over watercourses etc.

18A (1) A hereditament which is occupied (as mentioned in section 65 of this Act) is exempt to the extent that it consists of, or of any of the appurtenances of, a fixed road crossing over an estuary, river or other watercourse.

(2) For the purposes of this paragraph, a fixed road crossing means a bridge, viaduct, tunnel or other construction providing a means for road vehicles or pedestrians or both to cross the estuary, river or other watercourse concerned.

(3) For the purposes of sub-paragraph (2) above—

(a) a bridge may be a fixed road crossing notwithstanding that it is designed so that part of it can be swung, raised or otherwise moved in order to facilitate passage across, above or below it; but

(b) the expression "bridge" does not include a floating bridge, that is to say, a ferry operating between fixed chains.

(4) The reference in sub-paragraph (1) above to the appurtenances of a fixed road crossing is a reference to—

(a) the carriageway and any footway thereof;

(b) any building, other than office buildings, used in connection with the crossing; and

(c) any machinery, apparatus or works used in connection with the crossing or with any of the items mentioned in paragraphs (a) and (b) above."

Textual Amendments

F314 Words in Sch. 5 para. 37(2) repealed (18.11.2003 for E.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 3(i)(iii) (with art. 8, Sch.)

38 (1) Schedule 6 shall be amended as follows.

(2) In paragraph 1 the words ", and parts of them," shall be omitted.

(3) In paragraph 2, in sub-paragraph (1) after "non-domestic hereditament" there shall be inserted " none of which consists of domestic property and none of which is exempt from local non-domestic rating ".

(4) In paragraph 2, the following sub-paragraphs shall be inserted after sub-paragraph (1) —

"(1A) The rateable value of a composite hereditament none of which is exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of sub-paragraph (1) above, would reasonably be attributable to the non-domestic use of property.

(1B) The rateable value of a non-domestic hereditament which is partially exempt from local non-domestic rating shall be taken to be an amount equal to the rent which, assuming such a letting of the hereditament as is required to be assumed for the purposes of sub-paragraph (1) above, would, as regards the

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part of the hereditament which is not exempt from local non-domestic rating, be reasonably attributable to the non-domestic use of property."

(5) In paragraph 2, in sub-paragraph (6) for the words from "day the alteration" to the end there shall be substituted " material day. "

(6) In paragraph 2, the following sub-paragraph shall be inserted after sub-paragraph (6) —

"(6A) For the purposes of sub-paragraph (6) above—

(a) where the determination is occasioned by a proposal for an alteration disputing the accuracy of a previous alteration to the list, the material day is the day by reference to which the matters mentioned in sub-paragraph (7) below fell to be assessed when determining the rateable value with a view to making the disputed alteration;

(b) where the determination is occasioned by any proposal for an alteration other than one disputing the accuracy of a previous alteration to the list, the material day is the day the proposal is made;

(c) where the determination is occasioned otherwise than by a proposal for an alteration, the material day is the day the alteration is entered in the list."

(7) In paragraph 2, in sub-paragraph (7) after paragraph (c) there shall be inserted—

"(cc) the quantity of refuse or waste material which is brought onto and permanently deposited on the hereditament,".

(8) In paragraph 2, in sub-paragraph (8) for "description" there shall be substituted " class ".

(9) In paragraph 2, in sub-paragraph (9) after "(1)" there shall be inserted " , (1A) or (1B) ".

(10) In paragraph 2, the following sub-paragraphs shall be inserted after sub-paragraph (10)—

"(11) For the purposes of sub-paragraph (8) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.

(12) Without prejudice to the generality of sub-paragraph (11) above, a class may be prescribed by reference to one or more of the following factors—

(a) the physical characteristics of hereditaments;

(b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions.

(13) In this paragraph references to the non-domestic use of property are references to use otherwise than in such a manner as to constitute the property domestic property."

(11) The following paragraphs shall be inserted after paragraph 2—

"2A (1) This paragraph applies to any hereditament the whole or any part of which consists in buildings which are—

(a) used for the breeding and rearing of horses or ponies or for either of those purposes; and

(b) are occupied together with any agricultural land or agricultural building.

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(2) The rateable value of any hereditament to which this paragraph applies shall be taken to be the amount determined under paragraph 2 above less whichever is the smaller of the following amounts—

(a) such amount as the Secretary of State may by order specify for the purposes of this paragraph; and

(b) the amount which but for this paragraph would be determined under paragraph 2 above in respect of so much of the hereditament as consists of buildings so used and occupied.

(3) In this paragraph—

"agricultural land" means any land of more than two hectares which is agricultural land within the meaning of paragraph 2 of Schedule 5 above and is not land used exclusively for the pasturing of horses or ponies; and

"agricultural building" shall be construed in accordance with paragraphs 3 to 7 of that Schedule.

2B (1) This paragraph applies where—

(a) the rateable value of a hereditament consisting of an area of a caravan site is determined with a view to making an alteration to a list which has been compiled (whether or not it is still in force),

(b) the area is treated as one hereditament by virtue of regulations under section 64(3)(b),

(c) immediately before the day the alteration is entered in the list or (if the alteration is made in pursuance of a proposal) the day the proposal is made, the list includes a hereditament consisting of an area of the caravan site treated as one hereditament by virtue of such regulations, and

(d) the area mentioned in paragraph (b) above and the area mentioned in paragraph (c) above are wholly or partly the same.

(2) In relation to a caravan pitch which is included both in the area mentioned in sub-paragraph (1)(b) above and in the area mentioned in sub-paragraph (1)(c) above, sub-paragraph (3) below rather than paragraph 2(6) above shall apply as respects the matters mentioned in sub-paragraph (4) below.

(3) The matters mentioned in sub-paragraph (4) below shall be taken to be as they were assumed to be for the purposes of determining the rateable value of the hereditament mentioned in sub-paragraph (1)(c) above when that rateable value was last determined.

(4) The matters are—

(a) the nature of the caravan on the pitch, and

(b) the physical state of that caravan.

(5) For the purposes of this paragraph—

"caravan" has the same meaning as it has for the purposes of Part I of the Caravan Sites and Control of Development Act 1960, and

"caravan site" means any land in respect of which a site licence is required under Part I of that Act, or would be so required if paragraph 4 and paragraph 11 of Schedule 1 to the Act (exemption of certain land occupied and supervised by organisations concerned

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with recreational activities and of land occupied by local authorities) were omitted."

(12) In paragraph 3(1)—

(a) for "description" there shall be substituted " class ", and

(b) for "paragraph 2" there shall be substituted " paragraphs 2 to 2B ".

(13) In paragraph 3(2) for "paragraph 2" there shall be substituted " paragraphs 2 to 2B ".

(14) In paragraph 3, the following sub-paragraphs shall be inserted after sub-paragraph (2) —

"(3) For the purposes of sub-paragraph (1) above a class may be prescribed by reference to such factors as the Secretary of State sees fit.

(4) Without prejudice to the generality of sub-paragraph (3) above, a class may be prescribed by reference to one or more of the following factors—

(a) the physical characteristics of hereditaments;

(b) the fact that hereditaments are unoccupied or are occupied for prescribed purposes or by persons of prescribed descriptions."

(15) Paragraph 4 shall be omitted.

39 (1) Schedule 7 (multipliers) shall be amended as follows.

(2) In paragraph 7(1) for the words from "Regulations" to "that" there shall be substituted " In relation to a relevant financial year the Secretary of State may make regulations providing that ".

(3) In paragraph 8(3) for "section 57" there shall be substituted " paragraph 7 ".

(4) In paragraph 9(4) (certain orders ineffective unless in force before 1 January) for "January" there shall be substituted " March ".

(5) In paragraph 10(1) (special authority's power to set multiplier in substitution) the words "because of a failure to fulfil paragraph 9(2) or (3) above" shall be omitted.

40 The following Schedule shall be inserted after Schedule 7—

"SCHEDULE
7A

NON-DOMESTIC RATING: 1990-95

Definitions

1 (1) The transitional period is the period consisting of the financial years beginning in 1990, 1991, 1992, 1993 and 1994.

(2) A transitional day is a day falling in the transitional period.

2 (1) As regards a transitional day a hereditament is a defined hereditament if the first and second conditions are fulfilled; but this is subject to sub-paragraphs (4) and (5) below.

(2) The first condition is that the hereditament is shown for 31 March 1990 in a valuation list maintained under Part V of the 1967 Act.

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(3) The second condition is that the hereditament is shown in a local non-domestic rating list, and a rateable value is shown in the list for the hereditament, for—

(a) 1 April 1990,

(b) the transitional day (if different from 1 April 1990), and

(c) each day (if any) falling after 1 April 1990 and before the transitional day.

(4) If the hereditament is not a right falling within section 64(2) above, the hereditament is not a defined hereditament as regards the transitional day unless the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990 is £500 or more.

(5) If the hereditament is one falling within sub-paragraph (8) below, the hereditament is not a defined hereditament as regards the transitional day unless a person who is a qualifying person in relation to the hereditament as regards that day is also a person to whom sub-paragraph (6) or (7) below applies.

(6) This sub-paragraph applies to a person if—

(a) he occupied all or part of the hereditament on 31 March 1990, and

(b) he has been a qualifying person in relation to the hereditament as regards each day (if any) falling after 31 March 1990 and before the transitional day.

(7) This sub-paragraph applies to a person if—

(a) he was the owner of the whole of the hereditament on 31 March 1990,

(b) none of the hereditament was occupied on 31 March 1990,

(c) he occupied all or part of the hereditament on at least one day in the period beginning with 1 April 1988 and ending with 30 March 1990, and

(d) he has been a qualifying person in relation to the hereditament as regards each day which falls before the transitional day and falls after the last (or only) day in the period mentioned in paragraph (c) above on which he occupied all or part of the hereditament.

(8) A hereditament falls within this sub-paragraph if, assuming it to be a defined hereditament as regards 1 April 1990, paragraph 9 below would apply to the hereditament for that day by virtue of paragraph 7 below.

(9) For the purposes of this paragraph a person is a qualifying person in relation to a hereditament as regards a day if—

(a) he occupies all or part of the hereditament on that day, or

(b) where none of the hereditament is occupied on that day, he is the owner of the whole of the hereditament on that day.

3 (1) The notional chargeable amount for a hereditament for each day in a relevant year shall be found by applying the formula—

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$$\frac{A \times B}{C}$$

(2) A is the rateable value shown for the hereditament for 1 April 1990 in the local non-domestic rating list.

(3) Subject to sub-paragraph (4) below, B is the non-domestic rating multiplier for the relevant year concerned.

(4) Where the hereditament is situated in the area of a special authority, B is the authority's non-domestic rating multiplier for the relevant year concerned.

(5) C is the number of days in the relevant year concerned.

(6) Relevant years are financial years falling in the transitional period.

4 (1) The base liability for a hereditament for each day in the financial year beginning in 1990 shall be found by applying the formula—

$$\frac{A \times B}{C}$$

(2) A is the rateable value of the hereditament, as determined under paragraph 6 below.

(3) B is the general rate poundage effective for 31 March 1990 for the rating area (within the meaning of the 1967 Act) in which the hereditament is situated.

(4) C is the number of days in the financial year beginning in 1989.

(5) The base liability for a hereditament for each day in a relevant year (the year concerned) other than the financial year beginning in 1990 shall be found by applying the formula—

$$\mathrm{BL} \times \mathrm{AF}$$

(6) Relevant years are financial years falling in the transitional period.

(7) BL is the base liability for the hereditament for each day in the financial year immediately preceding the year concerned.

(8) AF is the appropriate fraction for the hereditament for each day in the financial year immediately preceding the year concerned.

5 (1) Sub-paragraph (2) below applies in a case where the notional chargeableamount for a hereditament for each day in a relevant year exceeds the base liability for the hereditament for each day in the year.

(2) The appropriate fraction for the hereditament for each day in the year shall be found by applying the formula—

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$$\frac{X}{100} \times \frac{\text{RPI(1)}}{\text{RPI(2)}}$$

(3) X is 120 if—

(a) the hereditament is situated in Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is £15,000 or more, or

(b) it is situated outside Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is £10,000 or more.

(4) X is 115 if—

(a) the hereditament is situated in Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is less than £15,000, or

(b) it is situated outside Greater London and the rateable value shown for it in the local non-domestic rating list for 1 April 1990 is less than £10,000.

(5) RPI(1) is the retail prices index for September of the financial year preceding the relevant year concerned.

(6) RPI(2) is the retail prices index for September of the financial year which precedes that preceding the relevant year concerned.

(7) Sub-paragraph (8) below applies in a case where the notional chargeableamount for a hereditament for each day in a relevant year does not exceed the base liability for the hereditament for each day in the year.

(8) The appropriate fraction for the hereditament for each day in the year shall be such as is—

(a) specified for the case by order made by the Secretary of State, or

(b) found in accordance with rules prescribed for the case by order so made.

(9) In making an order under this paragraph the Secretary of State shall have regard to the object of securing (so far as practicable) that the aggregate amount payable to him and all charging authorities by way of non-domestic rates as regards a relevant year is the same as it would in his opinion be likely to be apart from this Schedule.

(10) Relevant years are financial years falling in the transitional period.

6 (1) This paragraph has effect to determine A in relation to a hereditament for the purposes of paragraph 4 above.

(2) In a case where a rateable value is shown for the hereditament for 15 February 1989 in the old valuation list, A is the value so shown; but this is subject to sub-paragraph (3) below.

(3) If—

(a) a relevant proposal is (or relevant proposals are) made to alter the rateable value shown for the hereditament in that list, and

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(b) as a result of any such proposal a rateable value is shown for the hereditament in that list for a relevant day,

A is the rateable value shown in that list for the hereditament for the last (or only) relevant day for which a rateable value is shown as a result of any such proposal.

(4) For the purposes of sub-paragraph (3) above a relevant proposal is a proposal—

(a) made by a valuation officer at any time, or

(b) made by a person other than a valuation officer, and received by a valuation officer, before 15 February 1989.

(5) In a case where a rateable value is not shown for the hereditament for 15 February 1989 in the old valuation list, A is the rateable value shown in that list for the hereditament for the first relevant day for which a rateable value is shown; but this is subject to sub-paragraph (6) below.

(6) If—

(a) a relevant proposal is (or relevant proposals are) made to alter the rateable value shown for the hereditament in that list, and

(b) as a result of any such proposal a rateable value is shown for the hereditament in that list for a relevant day,

A is the rateable value shown in that list for the hereditament for the last (or only) relevant day for which a rateable value is shown as a result of any such proposal.

(7) For the purposes of sub-paragraph (6) above a relevant proposal is a proposal made by a valuation officer at any time.

(8) In the case of a hereditament—

(a) occupied by or on behalf of the Crown for public purposes in the period beginning with 15 February 1989 and ending with 31 March 1990, and

(b) in respect of which a contribution is made by the Crown in aid of rates for that period,

references in sub-paragraphs (2) to (6) above to rateable value are to value representing rateable value (which is required to be shown by section 37 of the 1967 Act).

(9) For the purposes of this paragraph a relevant day is a day falling after 15 February 1989 and before 1 April 1990.

(10) For the purposes of this paragraph the old valuation list is the valuation list, maintained under Part V of the 1967 Act, in which the hereditament is shown for 31 March 1990.

Chargeable amounts

7 (1) Paragraph 9 below applies to a hereditament for a transitional day (the day concerned) if—

(a) as regards the hereditament the day concerned is a chargeable day for which a chargeable amount falls to be determined under section 43 above,

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(b) as regards the day concerned the hereditament is a defined hereditament,
(c) NCA exceeds BL,
(d) NCA exceeds (BL x AF), and
(e) in a case where the day concerned is not 1 April 1990, paragraph 9 belowapplies to the hereditament for each transitional day preceding the day concerned, and it does so by virtue of this paragraph.

(2) In a case where the hereditament is situated in the area of a special authority, the reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—
(a) if the appropriate amount is positive, adding it to (BL x AF), or
(b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).

(3) For the purposes of sub-paragraph (2) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

(4) For the purposes of this paragraph—
(a) NCA is the notional chargeable amount for the hereditament for the day concerned,
(b) BL is the base liability for the hereditament for the day concerned,
(c) AF is the appropriate fraction for the hereditament for the day concerned,
(d) D is the rateable value shown for the hereditament in the local non-domestic rating list for 1 April 1990,
(e) E is the non-domestic rating multiplier of the special authority concerned for the financial year in which the day concerned falls,
(f) F is the non-domestic rating multiplier for the financial year in which the day concerned falls, and
(g) G is the number of days in the financial year in which the day concerned falls.

8 (1) Paragraph 9 below applies to a hereditament for a transitional day (the day concerned) if—
(a) as regards the hereditament the day concerned is a chargeable day for which a chargeable amount falls to be determined under section 43 above,
(b) as regards the day concerned the hereditament is a defined hereditament,
(c) NCA is less than BL,
(d) NCA is less than (BL x AF), and
(e) in a case where the day concerned is not 1 April 1990, paragraph 9 below applies to the hereditament for each transitional day preceding the day concerned, and it does so by virtue of this paragraph.

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(2) In a case where the hereditament is situated in the area of a special authority, the reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—

(a) if the appropriate amount is positive, adding it to (BL x AF), or

(b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).

(3) For the purposes of sub-paragraph (2) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

(4) For the purposes of this paragraph—

(a) NCA is the notional chargeable amount for the hereditament for the day concerned,

(b) BL is the base liability for the hereditament for the day concerned,

(c) AF is the appropriate fraction for the hereditament for the day concerned,

(d) D is the rateable value shown for the hereditament in the localnon-domestic rating list for 1 April 1990,

(e) E is the non-domestic rating multiplier of the special authority concerned for the financial year in which the day concerned falls,

(f) F is the non-domestic rating multiplier for the financial year in which the day concerned falls, and

(g) G is the number of days in the financial year in which the day concerned falls.

9 (1) In a case where this paragraph applies, for the purpose of ascertaining the chargeable amount for the day concerned under section 43 above that section shall have effect subject to the following amendments.

(2) The following subsections shall be substituted for subsections (4) and (5)—

"(4) Subject to subsection (5) below, the chargeable amount for a chargeable day shall be calculated by finding the amount represented by (BL x AF).

(5) Where subsection (6) below applies the chargeable amount for a chargeable day shall be calculated by—

(a) finding the amount represented by (BL x AF), and

(b) dividing that amount by 5."

(3) The following subsections shall be inserted after subsection (6)—

"(6A) In a case where the hereditament is situated in the area of a special authority, a reference to (BL x AF) is a reference to it adjusted by finding the appropriate amount and—

(a) if the appropriate amount is positive, adding it to (BL x AF), or

(b) if the appropriate amount is negative, subtracting the equivalent positive amount from (BL x AF).

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(6B) For the purposes of subsection (6A) above the appropriate amount is the amount found by applying the formula—

$$\frac{D \times (E - F)}{G}$$

”

(4) For the purposes of section 43 above as amended by this paragraph BL, AF, D, E, F and G shall be construed in accordance with paragraphs 7 and 8 above.

Regulations

10 (1) The Secretary of State may make regulations containing rules about the determination under section 45 or 54 above of a chargeable amount for a transitional day.

(2) The rules may make provision which he considers to be equivalent to that made by or under paragraphs 1 to 9 above, subject to any modifications he thinks fit.

11 (1) The Secretary of State may make regulations containing rules supplementing or modifying or excluding, for any case he considers appropriate and to such extent as he considers appropriate, any relevant provision.

(2) For the purpose of the determination under section 43, 45 or 54 above of a chargeable amount for a transitional day, the Secretary of State may make regulations applying any relevant provision (subject to any modifications he thinks fit) to any case—

(a) where he considers it appropriate to do so, and

(b) where the relevant provision would not (whether by virtue of regulations under sub-paragraph (1) above or otherwise) apply apart from the regulations under this sub-paragraph.

(3) A relevant provision is a provision made by or under paragraphs 1 to 9 above or by regulations under paragraph 10 above.

12 Without prejudice to the generality of section 143(1) and (2) above and paragraphs 10 and 11 above, regulations under those paragraphs may include provision—

(a) imposing duties and conferring powers on valuation officers (whether as regards determinations, certificates or otherwise) in relation to the ascertainment of rateable values;

(b) as to appeals relating to things done or not done by such officers.”

41 In Schedule 8 (non-domestic rating: pooling) in Part I, in paragraph 2 (non-domestic rating accounts: credits and debits) in sub-paragraph (1)(b) for “regulations made under section 59(2)” there shall be substituted “ section 59 ”.

42 (1) In Schedule 8 (non-domestic rating: pooling) Part II (non-domestic ratingcontributions) shall be amended as follows.

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(2) In paragraph 5, at the end of sub-paragraph (1) there shall be added " and has effect subject to any provision made by virtue of paragraph 6(2A) below ".

(3) In paragraph 6, after sub-paragraph (2) there shall be inserted the following sub-paragraphs—

"(2A) Regulations under paragraph 4 above may incorporate in the rules provision for adjustments to be made in the calculation of the amount of an authority's non-domestic rating contribution under paragraph 5(2) or 5(6) above, being adjustments to take account of relevant changes affecting the amount of the authority's non-domestic rating contribution for an earlier year.

(2B) For the purposes of sub-paragraph (2A) above, a change is a relevant change if it results from a decision, determination or other matter which (whether by reason of the time at which it was taken, made or occurred or otherwise) was not taken into account by the authority in the calculation under paragraph 5(6) above of the amount of its non-domestic rating contribution for the earlier year in question."

F315 43 . . . . . .

Textual Amendments

F315 Sch. 5 para. 43 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s.117(2), **Sch.14** (with s. 118(1)(2)(4)), S.I. 1992/2454, **art. 3**

44 (1) In Schedule 9 (administration) paragraph 2 (collection and recovery) shall be amended as follows.

(2) The following paragraphs shall be substituted for sub-paragraph (2)(g)—

"(g) that a notice must be in a prescribed form,

(ga) that a notice must contain prescribed matters,

(gb) that a notice must not contain other prescribed matters,

(gc) that where a notice is invalid because it does not comply with regulations under paragraph (g) or (ga) above, and the circumstances are such as may be prescribed, a requirement contained in the notice by virtue of regulations under paragraph (e) or (f) above shall nevertheless have effect as if the notice were valid,

(gd) that where a notice is invalid because it does not comply with regulations under paragraph (g) above, and a requirement has effect by virtue of regulations under paragraph (gc) above, the payee must take prescribed steps to issue to the ratepayer a document in the form which the notice would have taken had it complied with regulations under paragraph (g) above,

(ge) that where a notice is invalid because it does not comply with regulations under paragraph (ga) above, and a requirement has effect by virtue of regulations under paragraph (gc) above, the payee must take prescribed steps to inform the ratepayer of such of the matters prescribed under paragraph (ga) above as were not contained in the notice,".

(3) In sub-paragraph (2)(h) the words from "and" to the end shall beomitted.

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(4) The following sub-paragraph shall be inserted after sub-paragraph (2)—

"(2A) Regulations under this Schedule may include provision that where—

(a) an amount paid by the ratepayer in excess of his liability falls to be repaid or credited, and

(b) the circumstances are such as may be prescribed,

an additional amount by way of interest shall be paid or credited."

45 In Schedule 9 the following paragraph shall be inserted after paragraph 4—

"4A (1) Regulations under this Schedule may include provision that a charging authority and a person liable to pay it an amount under section 43 or 45 above may enter into an agreement that—

(a) any interest of his in the hereditament as regards which the liability arises shall be charged to secure payment of the amount, and

(b) in consideration of the charge the authority will take no steps for a period specified in the agreement to recover any payment in respect of the amount.

(2) The regulations may include—

(a) provision that the agreement may also extend to any further amount the person may become liable to pay to the authority under section 43 or 45 above as regards the hereditament;

(b) provision that the agreement may provide for the payment of interest on sums outstanding and for interest payable to be secured by the charge;

(c) provision restricting the period which may be specified as mentioned in sub-paragraph (1)(b) above."

46 (1) Paragraph 5 of Schedule 9 (power to require information to be supplied to a valuation officer) shall be amended as follows.

(2) In sub-paragraph (1) for the words from "requiring" to the end there shall be substituted "requesting him to supply to the officer information—

(a) which is specified in the notice, and

(b) which the officer reasonably believes will assist him in carrying out functions conferred or imposed on him by or under this Part."

(3) After sub-paragraph (1) there shall be inserted—

"(1A) A notice under this paragraph must state that the officer believes the information requested will assist him in carrying out functions conferred or imposed on him by or under this Part."

(4) In sub-paragraph (2)—

(a) for "required" (in the first place where the word occurs) there shall be substituted " requested ", and

(b) for "required" (in the second place where the word occurs) there shall be substituted " specified ".

47 (1) Paragraph 6 of Schedule 9 (authority's duty to supply information to valuation officer) shall be amended as follows.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(2) In sub-paragraph (1) for "relevant" there shall be substituted " charging ", and in consequence sub-paragraph (2) shall be omitted.

(3) After sub-paragraph (1) there shall be inserted—

"(1A) The Secretary of State may make regulations containing provision that, at such times and in such manner as may be prescribed, a charging authority shall supply to the valuation officer for the authority information of such description as may be prescribed."

48 The following paragraphs shall be substituted for paragraph 8 of Schedule 9 (inspection)—

"8 (1) A person may require a valuation officer to give him access to such information as will enable him to establish what is the state of a list, orhas been its state at any time since it came into force, if—

(a) the officer is maintaining the list, and

(b) the list is in force or has been in force at any time in the preceding 5 years.

(2) A person may require a charging authority to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—

(a) the authority has deposited the copy under section 41(6B) above, and

(b) the list is in force or has been in force at any time in the preceding 5 years.

(3) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a list, or has been its state at any time since it was deposited, if—

(a) the Secretary of State has deposited the copy under section 52(6B) above, and

(b) the list is in force or has been in force at any time in the preceding 5 years.

(4) A person may require a charging authority to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

(a) the authority has deposited the copy under section 41(6) above, and

(b) the list itself is not yet in force.

(5) A person may require the Secretary of State to give him access to such information as will enable him to establish what is the state of a copy of a proposed list if—

(a) the Secretary of State has deposited the copy under section 52(6) above,and

(b) the list itself is not yet in force.

(6) A requirement under any of the preceding provisions of this paragraph must be complied with at a reasonable time and place and without payment being sought; but the information may be in documentary or

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other form, as the person or authority of whom the requirement is made thinks fit.

(7) Where access is given under this paragraph to information in documentary form the person to whom access is given may—

(a) make copies of (or of extracts from) the document;

(b) require a person having custody of the document to supply to him a photographic copy of (or of extracts from) the document.

(8) Where access is given under this paragraph to information in a form which is not documentary the person to whom access is given may—

(a) make transcripts of (or of extracts from) the information;

(b) require a person having control of access to the information to supply to him a copy in documentary form of (or of extracts from) the information.

(9) If a reasonable charge is required for a facility under sub-paragraph (7)or (8) above, the sub-paragraph concerned shall not apply unless the person seeking to avail himself of the facility pays the charge.

(10) If without reasonable excuse a person having custody of a document containing, or having control of access to, information access to which is sought under this paragraph—

(a) intentionally obstructs a person in exercising a right under sub-paragraph (1), (2), (3), (4), (5), (7)(a) or (8)(a) above, or

(b) refuses to comply with a requirement under sub-paragraph (7)(b) or (8)(b) above,

he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale.

9 (1) A person may, at a reasonable time and without making payment, inspect any proposal made or notice of appeal given under regulations made under section 55 above, if made or given as regards a list which is in force when inspection is sought or has been in force at any time in the preceding 5 years.

(2) A person may—

(a) make copies of (or of extracts from) a document mentioned in sub-paragraph (1) above, or

(b) require a person having custody of such a document to supply to him a photographic copy of (or of extracts from) the document.

(3) If a reasonable charge is required for a facility under sub-paragraph (2) above, the sub-paragraph shall not apply unless the person seeking to avail himself of the facility pays the charge.

(4) If without reasonable excuse a person having custody of a document mentioned in sub-paragraph (1) above—

(a) intentionally obstructs a person in exercising a right under sub-paragraph (1) or (2)(a) above, or

(b) refuses to supply a copy to a person entitled to it under sub-paragraph (2)(b) above,

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he shall be liable on summary conviction to a fine not exceeding level 1 on the standard scale."

Precepts and levies

F316 49 . . . . . .

Textual Amendments

F316 Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)), S.I. 1992/2454, **art. 3**

F317 50 . . . . . .

Textual Amendments

F317 Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F318 51 . . . . . .

Textual Amendments

F318 Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F319 52 . . . . . .

Textual Amendments

F319 Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F320 53 . . . . . .

Textual Amendments

F320 Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F321 54 . . . . . .

Textual Amendments

F321 Sch. 5 paras. 49-54 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

55 (1) Section 75 (special levies) shall be amended as follows.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(2) In subsection (2) for "Secretary of State" there shall be substituted " appropriate Minister ".

F322(3) . . . . . .

(4) At the end of that section there shall be added the following subsection—

"(8) In this section "the appropriate Minister" has the same meaning as in section 118 below."

Textual Amendments

F322 Sch. 5 para. 55(3) repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F323 56 . . . . . .

Textual Amendments

F323 Sch. 5 para. 56 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

Grants

57 (1) Section 77 (information) shall be omitted.

(2) This paragraph shall not affect the operation of section 77 as regards a case where a notice has been served under it before the coming into force of this paragraph.

F324 58 . . . . . .

Textual Amendments

F324 Sch. 5 para. 58 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(8)); S.I. 1992/2454, **art.3**

F325 59 . . . . . .

Textual Amendments

F325 Sch. 5 para. 59 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

60 In section 88 (transport grants: supplementary), in subsections (4) and (6) for the words from "prescribed expenditure" onwards there shall, in each case, be substituted " expenditure for capital purposes within the meaning of Part IV of the Local Government and Housing Act 1989 ".

F326 61 . . . . . .

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F326 Sch. 5 para. 61 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

Funds

62 In section 89(4) (use of sums paid into charging authority's collection fund) for "settlement" there shall be substituted " the making ", and consequently in section 89(5) for "settling" there shall be substituted " making ".

F327 63 . . . . . .

Textual Amendments

F327 Sch. 5 para. 63 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

F328 64 . . . . . .

Textual Amendments

F328 Sch. 5 para. 64 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

F329 65 . . . . . .

Textual Amendments

F329 Sch. 5 para. 65 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

Financial administration

66 The following subsection shall be inserted after subsection (3) of section 114 (functions of chief finance officer)—

"(3A) It shall be the duty of the chief finance officer of a relevant authority, in preparing a report in pursuance of subsection (2) above, to consult so far as practicable—

(a) with the person who is for the time being designated as the head of the authority's paid service under section 4 of the Local Government and Housing Act 1989; and

(b) with the person who is for the time being responsible for performing the duties of the authority's monitoring officer under section 5 of that Act."

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Existing rates

67 (1) In section 118 (power to abolish or modify existing rates), at the end of subsection (1) there shall be added " and, in the case of an internal drainage board, there shall be disregarded for the purposes of paragraph (b)above any agreement under section 81 of the Land Drainage Act 1976 under which the board have agreed that no drainage rate will be levied on occupiers or owners of certain rateable hereditaments ".

(2) In subsections (2) and (4) of that section for the words "Secretary of State" there shall be substituted " appropriate Minister ".

(3) At the end of subsection (5) of that section there shall be added "and "the appropriate Minister" means—

(a) as respects any internal drainage board whose district is wholly within England, the Minister of Agriculture, Fisheries and Food;

(b) as respects any internal drainage board whose district is partly in England and partly in Wales, that Minister and the Secretary of State acting jointly; and

(c) as respects any other body, the Secretary of State."

Information

68 The following section shall be inserted after section 139—

"**139A Information.**

(1) Subsection (2) below applies where—

(a) the Secretary of State serves a notice on a relevant authority or relevant officer requiring it or him to supply to the Secretary of State information specified in the notice,

(b) the information is required by the Secretary of State for the purpose of deciding whether to exercise his powers, and how to perform his functions, under this Act, and

(c) the information is not personal information.

(2) The authority or officer shall supply the information required, and shall do so in such form and manner and at such time as the Secretary of State specifies in the notice.

(3) If an authority or officer fails to comply with subsection (2) above the Secretary of State may assume the information required to be such as he sees fit; and in such a case the Secretary of State may decide in accordance with the assumption whether to exercise his powers, and how to perform his functions, under this Act.

(4) In deciding whether to exercise his powers, and how to perform his functions, under this Act the Secretary of State may also take into accountany other information available to him, whatever its source and whether or not obtained under a provision contained in or made under this or any other Act.

(5) Each of the following is a relevant authority—

(a) a charging authority;

(b) a precepting authority.

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(6) The community charges registration officer for a charging authority is a relevant officer.

(7) Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the authority or officer concerned; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual.

(8) This section shall have effect before 1 April 1990 as if after paragraph (b) of subsection (5) above there were inserted—

(c) the Inner London Education Authority."

England and Wales: separate administration

69 (1) Section 140 (separate administration in England and Wales) shall be amended as follows.

(2) In subsection (1) after "VII" there shall be inserted " , and paragraphs 1 to 4 of Schedule 12A below, ".

(3) In subsection (2) the word "and" at the end of paragraph (e) shall be omitted, and after paragraph (f) there shall be inserted "and

(a) separate reports under Schedule 12A below shall be made."

(4) In subsection (3) after "VII" there shall be inserted " , and paragraphs 1 to 4 of Schedule 12A below, ".

Payments

F330 70 . . .

Textual Amendments

F330 Sch. 5 para. 70 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), **s. 117(2)**; Sch.14 (with s.118(1)(2)(4)), S.I. 1992/2454, **art. 3(1)**

F331 71 . . . . . .

Textual Amendments

F331 Sch. 5 para. 71 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

Orders and regulations

72 (1) Section 143 (orders and regulations) shall be amended as follows.

(2) In subsection (2) after "Secretary of State" there shall be inserted " the Minister of Agriculture, Fisheries and Food ".

(3) In subsection (3) for "(9)" there shall be substituted " (9B) ".

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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(4) In subsection (4) the words "57 or" shall be omitted.

(5) In subsection (5) after "118 above" there shall be inserted " otherthan regulations relating to an internal drainage board ".

(6) The following subsections shall be inserted after subsection (9)—

"(9A) The power to make an order under paragraph 5 of Schedule 7A below shall be exercisable by statutory instrument, and no such order shall be made unless a draft of it has been laid before and approved by resolution of each House of Parliament.

(9B) The power to make regulations under paragraph 5 or 6 of Schedule 12A below shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons."

(7) In subsection (10) after "118 above" there shall be inserted " otherthan regulations relating to an internal drainage board ".

Relevant population

F332 73 . . . . . .

Textual Amendments

F332 Sch. 5 para. 73 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

F333 74 . . . . . .

Textual Amendments

F333 Sch. 5 para. 74 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3**

Information

75 In section 146 (interpretation) the following subsection shall be inserted after subsection (5)—

"(5A) Unless the context otherwise requires, "information" includes accounts, estimates and returns."

Tribunals

76 (1) Schedule 11 (tribunals) shall be amended as follows.

(2) In paragraph 2 (jurisdiction) the following paragraph shall be inserted at the end—

"(c) paragraph 4 of Schedule 4A above."

F334 (3) . . . . . .

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Textual Amendments

F334 Sch. 5 para. 76(3) repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

General

F335 77 . . . . . .

Textual Amendments

F335 Sch. 5 para. 77 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

F336 78 . . . . . .

Textual Amendments

F336 Sch. 5 para.78 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art.3**

79 (1) Paragraphs 7, 8, 52, 54, 56 and 66 above shall come into force at the expiry of the period of 2 months beginning on the day this Act is passed.

(2) Paragraphs 49(3), 60 and 63 above shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and

(a) different days may be so appointed for different provisions or for different purposes;

(b) section 195(3) of this Act shall apply to an order under this sub-paragraph as it applies to an order under section 195(2).

(3) The 1988 Act shall be treated as having been enacted with the amendments made by this Schedule, except in so far as the amendments are made by paragraph 12, 57, or 68 above or any of the paragraphs mentioned in sub-paragraph (1) or (2) above.

Modifications etc. (not altering text)

C115 Power of appointment conferred by Sch. 5 para. 79(2) fully exercised: 16.1.1990 appointed by S.I. 1989/2445, **art. 3**

80 In this Schedule "the 1988 Act" means the M224 Local Government Finance Act 1988.

Marginal Citations

M224 1988 c. 41.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

SCHEDULE 6

Section 145.

AMENDMENT OF SCOTTISH ENACTMENTS

Valuation appeals to Lands Tribunal for Scotland

1 In section 1 of the [M225]Lands Tribunal Act 1949 (which provides as to, amongst other things, the jurisdiction of the Lands Tribunal for Scotland) after subsection (3B) there shall be inserted the following subsection—

"(3BA) The Lands Tribunal for Scotland may also determine any appeal against thedecision of a valuation appeal committee not to refer to the Tribunal any appeal or complaint made to the committee and, where the Tribunal upholds such an appeal, the appeal or complaint made to the committee shall, for the purposes of this section, be regarded as having been referred by the committeeto the Tribunal for determination under subsection (3A) above."

Marginal Citations
M225 1949 c. 42.

2 In section 15 of the [M226] Local Government (Financial Provisions) (Scotland) Act 1963—

(a) after subsection (2) there shall be inserted the following subsection—

"(2AA) A valuation appeal committee, on the joint application of the assessor and an appellant or complainer made within such period as may be prescribed by regulations made by the Secretary of State, shall refer the appeal or complaint to the Lands Tribunal for Scotland for determination under section 1(3A) of the Lands Tribunal Act 1949."; and

(b) in subsection (2A) (regulations about valuation appeals to the Lands Tribunal for Scotland)—

(i) for the word "governing" there shall be substituted the words " as to ";

(ii) the word "and" between paragraphs (a) and (b) shall be omitted; and

(iii) at the end there shall be added the following paragraphs—

"(c) the giving by a valuation appeal committee of reasons for its decision notto refer to the Tribunal any appeal or complaint made to the committee; and

(d) the circumstances and manner in which an appeal may be made to theTribunal for determination under subsection (3BA) of section 1 of the Lands Tribunal Act 1949 (jurisdiction of the Tribunal to determine appeal against decision of valuation appeal committee not to refer an appeal or complaint to the Tribunal)."

Marginal Citations
M226 1963 c. 12.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

Rateable value of certain buildings used for breeding or rearing horses

3 In subsection (1) of section 6 of the [M227]Valuation and Rating (Scotland) Act 1956 (as certainment of annual and rateable values) for the words "the next following section" there shall be substituted the words " sections 7 to 7B ".

Marginal Citations
M227 1956 c. 60.

4 In that Act the following section shall be inserted after section 7A—

"**7B Rateable value of certain buildings used for breeding or rearing horses.**

(1) This section applies to any lands and heritages the whole or any part of which consists of buildings which are—

(a) used for the breeding and rearing of horses or for either of those purposes; and

(b) occupied together with any agricultural land or agricultural building.

(2) The rateable value of any lands and heritages to which this section applies shall be taken to be the amount determined under section 6 of this Act less whichever is the smaller of the following amounts—

(a) such amount as the Secretary of State may by order specify for the purposes of this section;

(b) the amount which but for this section would be determined under that section in respect of so much of the lands and heritages as consists of buildings so used and occupied.

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

(4) In this section—

"agricultural land" means any land of more than two hectares which is agricultural lands and heritages within the meaning of subsection (2) of section 7 of this Act and is not land used exclusively for the pasturing of horses;

"agricultural building" has the same meaning as in that subsection; and

"horses" has the same meaning as in section 6(4) of the Riding Establishments Act 1964."

Application of regulations about determination of net annual value

5 In section 6 of the [M228]Valuation and Rating (Scotland) Act 1956, after subsection (8B) (further provision as to regulations relating to determination of net annual value) there shall be inserted the following subsections—

"(8C) For the purposes of subsection (8B) above, cases may be defined, described or classified by reference to such factors as the Secretary of State thinks fit.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(8D) Without prejudice to the generality of subsection (8C) above, a case may be defined, described or classified by reference to one or more of the following factors—

(a) the physical characteristics of lands and heritages;

(b) the fact that lands and heritages are unoccupied or are occupied for purposes prescribed by the regulations or by persons of descriptions so prescribed.”

Marginal Citations

M228 1956 c. 60.

Rateable value for purposes of levying rates after 1st April 1990

6 In section 7 of the [M229]Local Government (Scotland) Act 1975 (levying of rates) in subsection (1A) there shall be inserted at the end the words “ ; and references in this subsection to an apportioned value of part residential subjects are references to that part of that value which is shown in the apportionment note as relating to the non-residential use of the subjects, ”.

Marginal Citations

M229 1975 c. 30.

[[F337]7 In section 128 of the [M230]Local Government Finance Act 1988 (levying of rates after 1st April 1990)—

(a) in subsection (1)—

(i) for the word “Every” there shall be inserted the words “ Then on-domestic ”; and

(ii) after the word “regards” there shall be inserted the words “ different areas and" ”;

(b) after that subsection there shall be inserted the following subsections—

“(1A) The considerations referred to in paragraph (b) of subsection (1) above shall be such as the Secretary of State thinks fit and may, without prejudice to that generality, include considerations which otherwise would not relateto the determination of the rateable value of lands and heritages.

(1B) The classification of lands and heritages for the purposes of subsection (1) above shall be by reference to such factors as the Secretary of State thinks fit and may, without prejudice to that generality, include the circumstances of persons by whom rates are payable.

(1C) Regulations made under this section may, in relation to lands and heritages which are part residential subjects (within the meaning of the Abolition of Domestic Rates Etc. (Scotland) Act 1987), provide for the apportionment of the rateable value prescribed or determined under this section in respect of the subjects as between the residential and non-residential use of the subjects.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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(1D) A rateable value prescribed or determined under this section in respect of any lands and heritages shall be the rateable value of the lands and heritages for the purpose of the levying of the non-domestic rate but not for any other purposes.”; and

(c) subsection (3) shall cease to have effect.**]**

Textual Amendments

F337 Sch. 6 para. 7 repealed (S.) (1.4.1995) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1994/3150, art. 4(d), **Sch. 2**

Marginal Citations

M230 1988 c. 41.

Exemption of church premises from the non-domestic rate

F3388 . . . . . .

Textual Amendments

F338 Sch. 6 para. 8 repealed (1.4.1992) by Local Government Finance Act 1992 (c. 14), s. 117, **Sch. 14** (with a. 118(1)(2)(4)); S.I 1992/818, art. 2,Sch.

Extension of charitable rate relief to universities

9 In the **M231**Local Government (Financial Provisions etc.) (Scotland) Act 1962—

(a) in section 4, subsections (3) and (4), and

(b) the first Schedule,

shall be omitted.

Marginal Citations

M231 1962 c. 9.

Duty to notify registration officer about liability for collective community charge

10 In subsection (1) of section 18 of the **M232**Abolition of Domestic Rates Etc. (Scotland) Act 1987 (duty to notify registration officer of certain matters) for the words “the personal or standard community charge” there shall be substituted the words “ any of the community charges ”.

Marginal Citations

M232 1987 c. 47.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

Interest not payable on back dated liability for community charges where there is reasonable excuse for non-registration

11 (1) In subsection (3)(a) of section 18 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (interest on backdated liability for community charges) after the words "together with" there shall be inserted the words " ,unless he satisfies the levying authority that he has a reasonable excuse for not having been registered, "

(2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as the said section 18.

Exemption from personal community charge

12 In paragraph 4 of Schedule 1A to the Abolition of Domestic Rates Etc.(Scotland) Act 1987 (exemption of the severely mentally impaired) there shall be added at the end the following sub-paragraphs—

"(6) Regulations under sub-paragraph (5) above may provide that, in the circumstances set out in the regulations, a certificate given for the purposes of sub-paragraph (1)(c) above shall continue to have effect for the purposes of this paragraph notwithstanding that the definition of severe mental impairment upon which the certificate proceeds has been substituted by the regulations.

(7) Regulations under sub-paragraph (5) above made in respect of the financial year 1989-90 may provide that a person—

(a) who was not within the old definition of severely mentally impaired but who, being within the new definition of that expression, is exempt; and

(b) in respect of whom such conditions as are prescribed are fulfilled

may be treated as having been exempt as from such date prior to the coming into force of the regulations as may be provided for in the regulations.

(8) In sub-paragraph (7) above, the "old" definition is the definitionin force immediately before the coming into force of regulations under sub-paragraph (5) above and the "new" definition is the definition being substituted for the old definition by regulations under that sub-paragraph."

13 For paragraph 5 of Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (exemption of person in respect of whom another is entitled to child benefit) there shall be substituted the following paragraph—

"5 A person is exempt if—

(a) another person is entitled to child benefit in respect of him; or

(b) a person would be entitled to child benefit in respect of him but for paragraph 1(b) or (c) of Schedule 1 to the Child Benefit Act 1975."

14 After paragraph 6 of Schedule 1A to the [M233]Abolition of Domestic Rates Etc. (Scotland) Act 1987 there shall be inserted the following paragraph—

"6A (1) A person is exempt if—

(a) he is aged under 20;

(b) he is undertaking a qualifying course of education; and

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(c) the course is not undertaken in consequence of an office or employment held by the person.

(2) For the purposes of this paragraph, a person shall be treated as undertaking a qualifying course of education if (and only if) he fulfils such conditions as may be prescribed."

Marginal Citations
M233 1987 c. 47.

15 In paragraph 12(c) of Schedule 1A to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (exemption for persons residing in premises subject to non-domestic rates) there shall be added at the end " but are not part residential subjects ".

Liability for non-domestic water rate

[F339 16(1) In section 40(3) of the M234 Water (Scotland) Act 1980 (which provides as to who is liable for the non-domestic water rate) there shall be inserted at the end the words "or who would be liable to pay those non-domestic rates but for any enactment which exempts the lands and heritages from those rates or by or under which any relief or remission from liability for those rates is given".

(2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as paragraph 29 of Schedule 5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987.**]**

Textual Amendments
F339 Sch. 6 para. 16 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Marginal Citations
M234 1980 c. 45.

Premises in respect of which non-domestic water rate is leviable

[F340 17(1) In section 41 of the Water (Scotland) Act 1980 (levy of non-domestic waterrate on certain premises)—

(a) in the proviso to subsection (1) (rate to be levied on one half of rateable value or lower fraction resolved by water authority)—

(i) after the word "aforesaid" there shall be inserted the words " orto any class of such premises "; and

(ii) after the words "those premises" there shall be inserted the words " or, as the case may be, to premises in that class "; and

(b) in subsection (4) (premises subject to the rate) after the words "other premises " there shall be inserted the words " of whatsoever kind but ".

(2) The amendments made by sub-paragraph (1) above shall be deemed always to have been in force.**]**

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

Textual Amendments

F340 Sch. 6 para. 17 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Exemption of formula valued premises from non-domestic water rate

[F341 18 In section 6 of the M235 Local Government (Scotland) Act 1975 (valuation by formula of certain lands and heritages) after subsection (1) there shall be inserted the following subsection—

"(1A) The Secretary of State may by order provide that the non-domestic water rate shall not be leviable in respect of formula valued lands and heritages or of such formula valued lands and heritages or of such class or description of formula valued lands and heritages as may be prescribed for the purposes of this subsection.

In this subsection, "formula valued lands and heritages" are lands and heritages which have, or lands and heritages of a class or description which has, been prescribed for the purposes of subsection (1) above."**]**

Textual Amendments

F341 Sch. 6 para. 18 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Marginal Citations

M235 1975 c. 30.

[F342 19 In section 40 of the M236 Water (Scotland) Act 1980 (non-domestic water rate)—

(a) in subsection (1), after the word "Act" there shall be inserted the words " and section 6(1A) of the Local Government (Scotland) Act 1975 (exemption of formula valued premises from non-domestic water rate) ";

(b) subsection (7) shall be omitted.**]**

Textual Amendments

F342 Sch. 6 para. 19 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Marginal Citations

M236 1980 c. 45.

Liability for non-domestic sewerage rate

F343 20 . . . . . .

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F343 Sch. 6 para. 20 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(d)**,Sch.

Reduced liability for non-domestic sewerage rate in respect of certain church and charity premises

F344 21 . . . . . .

Textual Amendments

F344 Sch. 6 para. 21 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(d)**,Sch.

Public inspection of community charges register

22 In section 20(2)(a)(ii) of the M237 Abolition of Domestic Rates Etc. (Scotland) Act 1987 after "premises", where secondly occurring, there shall be inserted " or the sex of that person ".

Marginal Citations

M237 1987 c. 47.

Exclusion from voting disability of local authority members who are community charge payers

F345 23 . . . . . .

Textual Amendments

F345 Sch. 6 para. 23 repealed (S.) (1.5.2003) by Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), s. 37(2), **sch. 4** (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

Revocation of civil penalties imposed by registration officer

24 (1) In section 17 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (which provides for, amongst other things, the imposition of civil penalties)after subsection (11) there shall be inserted the following subsection—

"(11A) If, after the imposition of a civil penalty under subsection (10) or (11)above but before the making of any appeal under subsection (12) below against that imposition, the registration officer, in the light of information whichhe did not consider when imposing the penalty—

(a) is no longer satisfied as to the matter as to which he was satisfied underparagraph (a) or (b) of subsection (10) above or paragraph (c) of subsection(11) above before imposing the penalty; or

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(b) is satisfied that the responsible person upon whom the penalty was imposed did have a reasonable excuse,

he may revoke the imposition of the penalty; and on such revocation any money paid to the regional or islands council by the responsible person by way of that penalty shall be repaid by them to him."

(2) The amendment made by sub-paragraph (1) above shall be deemed to have come into force at the same time as the said section 17.

Evidence in appeals under Abolition of Domestic Rates Etc. (Scotland) Act 1987

25 In section 29 of the [M238]Abolition of Domestic Rates Etc. (Scotland) Act 1987 (appeals) after subsection (1) there shall be inserted the following subsection—

"(1A) The sheriff may, in considering an appeal under this Act, hear and receive evidence.

This subsection is without prejudice to—

(a) any other enactment, or

(b) any rule of law,

relating to the hearing or receiving of evidence in summary applications.".

Marginal Citations

M238 1987 c. 47.

No liability for community water charges where water previously supplied free

26 (1) In paragraph 8 of Schedule 5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (qualifying conditions for liability to pay community water charges) there shall be added at the end "and

(c) that the supply of water provided is not one which the water authority were, immediately before 16 May 1949, and continue to be under an obligation to provide free of charge."

(2) The amendment made by sub-paragraph (1) above shall be deemed to have comeinto force at the same time as the said paragraph 8.

Provision of information by registration officer

27 The following section shall be inserted after section 20B of the Abolitionof Domestic Rates Etc. (Scotland) Act 1987—

"**20C Registration officer: provision of information to Secretary of State.**

(1) Subsection (2) below applies where—

(a) the Secretary of State serves a notice on the registration officer requiring him to supply to the Secretary of State information specified in the notice;

(b) the information is in the possession or control of the registration officer and was obtained by him for the purpose of carrying out his functions under this Act; and

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(c) the information is not personal information.

(2) The registration officer shall supply the information required, and shall do so in such form and manner and at such time as the Secretary of State specifies in the notice.

(3) Regulations under this section may include provision that the registration officer may—

(a) supply relevant information to any person who requests it;

(b) charge a prescribed fee for supplying the information.

(4) Information is relevant information if—

(a) it was obtained by the registration officer for the purpose of carrying out his functions under this Act; and

(b) it is not personal information.

(5) Personal information is information which relates to an individual (living or dead) who can be identified from that information or from that and other information supplied to any person by the registration officer; and personal information includes any expression of opinion about the individual and any indication of the intentions of any person in respect of the individual."

Revenue support grants

28 In section 23(2) of the [M239]Abolition of Domestic Rates Etc. (Scotland) Act 1987, for the words from "a" onward there shall be substituted the words " grants (to be known as "revenue support grants") to local authorities ".

Marginal Citations
M239 1987 c. 47.

29 For paragraphs 1 to 3 of Schedule 4 to that Act (revenue support grants) there shall be substituted the following paragraphs—

"1 (1) The local authorities to which revenue support grant is payable in respect of a financial year shall be such local authorities as are specified by order made by the Secretary of State.

(2) The amount of revenue support grant payable in respect of a financial yeart o a local authority so specified shall be such amount as is determined in relation to the local authority by order made by the Secretary of State.

(3) The Secretary of State may at any time by order amend or revoke any order made under this paragraph and any amount of revenue support grant which has been paid and which, in consequence of anything done under this paragraph, falls to be repaid may be recovered by the Secretary of State whenever and however he thinks fit.

2 (1) An order under paragraph 1 above shall be made only with the consent of the Treasury.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Before making an order under paragraph 1 above the Secretary of State shall consult such associations of local authorities as appear to him to be appropriate.

(3) An order under paragraph 1 above together with a report of the considerations which led to its provisions shall be laid before the Commons House of Parliament but shall have no effect until approved by a resolution of that House."

SCHEDULE 7

Section 149.

Compensation Provisions of Landlord and Tenant Act 1954, Part II

1 Any reference in this Schedule to a section which is not otherwiseidentified is a reference to that section of the [M240]Landlordand Tenant Act 1954, Part II of which relates to security of tenure forbusiness, professional and other tenants.

Marginal Citations
M240 1954 c. 56.

2 (1) Subject to the following provisions of this Schedule, section 37 (compensation where order for new tenancy precluded on certain grounds) shall have effect with the amendments set out below.

(2) At the beginning of subsection (2) there shall be inserted the words "Subject to subsections (5A) to (5D) of this section".

(3) After subsection (5) there shall be inserted the following subsections—

"(5A) If part of the holding is domestic property, as defined in section 66 ofthe Local Government Finance Act 1988,—

(a) the domestic property shall be disregarded in determining the rateable value of the holding under subsection (5) of this section; and

(b) if, on the date specified in subsection (5)(a) of this section, the tenant occupied the whole or any part of the domestic property, the amount of compensation to which he is entitled under subsection (1) of this section shall be increased by the addition of a sum equal to his reasonable expenses in removing from the domestic property.

(5B) Any question as to the amount of the sum referred to in paragraph (b) of subsection (5A) of this section shall be determined by agreement between the landlord and the tenant or, in default of agreement, by the court.

(5C) If the whole of the holding is domestic property, as defined in section 66 of the Local Government Finance Act 1988, for the purposes of subsection (2) of this section the rateable value of the holding shall be taken to be an amount equal to the rent at which it is estimated the holding might reasonably be expected to let from year to year if the tenant undertook to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the holding in a state to command that rent.

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(5D) The following provisions shall have effect as regards a determination of an amount mentioned in subsection (5C) of this section—

(a) the date by reference to which such a determination is to be made is the date on which the landlord's notice under section 25 or, as the case may be,subsection (6) of section 26 of this Act is given;

(b) any dispute arising, whether in proceedings before the court or otherwise, as to such a determination shall be referred to the Commissioners of Inland Revenue for decision by a valuation officer;

(c) an appeal shall lie to the Lands Tribunal from such a decision but,subject to that, such a decision shall be final."

(4) At the end of subsection (8) (definition of "the appropriate multiplier") there shall be added the words "and different multipliers may be so prescribed in relation to different cases".

3 The amendments made by paragraph 2 above do not have effect unless the date which, apart from paragraph 4 below, is relevant for determining the rateable value of the holding under subsection (5) of section 37 is on or after 1st April 1990.

4 (1) Subject to paragraph 3 above and paragraph 5 below, in any case where—

(a) the tenancy concerned was entered into before 1st April 1990 or was entered into on or after that date in pursuance of a contract made before that date, and

(b) the landlord's notice under section 25 or, as the case may be, section 26(6) is given before 1st April 2000, and

(c) within the period referred to in section 29(3) for the making of anapplication under section 24(1), the tenant gives notice to the landlord that he wants the special basis of compensation provided for by this paragraph,

the amendments made by paragraph 2 above shall not have effect and section 37 shall, instead, have effect with the modification specified in sub-paragraph (2) below.

(2) The modification referred to in sub-paragraph (1) above is that the date which is relevant for the purposes of determining the rateable value of the holding under subsection (5) of section 37 shall be 31st March 1990 insteadof the date on which the landlord's notice is given.

5 In any case where—

(a) paragraph 4(1)(a) above applies, and

(b) on 31st March 1990, the rateable value of the holding could be determined only in accordance with paragraph (c) of subsection (5) of section 37,

no notice may be given under paragraph 4(1)(b) above.

[F346]SCHEDULE 8

Section 160.

. . . . . .

Textual Amendments

F346 Sch. 8 omitted (7.1.1997) by virtue of S.I. 1996/3071, art. 2, **Sch. para. 3(11)**

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 9

Section 165.

AMENDMENTS OF PARTS VI, IX, XI, XVII AND XVIII OF THE HOUSING ACT 1985

PART I

AMENDMENTS OF PART VI

1 (1) In section 189 (repair notice in respect of unfit house), in subsection (1), after the words "dwelling-house", in the first two places where they occur, there shall be inserted " or house in multiple occupation " and for the words from "unless they are satisfied" onwards there shall be substituted " if they are satisfied, in accordance with section 604A, that serving a notice under this subsection is the most satisfactory course of action ".

(2) In subsection (1A) of that section—

(a) for the words "a dwelling-house which is a flat" there shall be substituted " either a dwelling-house which is a flat or a flat in multiple occupation ";

(b) for the words from "by reason" to "outside the flat" there shall be substituted " by virtue of section 604(2) "; and

(c) for the words from "that part of the building" onwards there shall be substituted " the part of the building in question if they are satisfied, in accordance with section 604A, that serving a notice under this subsection is the most satisfactory course of action ".

(3) After subsection (1A) there shall be inserted the following subsection—

"(1B) In the case of a house in multiple occupation, a repair notice may be served on the person managing the house instead of on the person having control; and where a notice is so served, then, subject to section 191, the person managing the house shall be regarded as the person having control of it for the purposes of the provisions of this Part following that section."

(4) In subsection (2) of that section, in paragraph (a) after the words "works specified in the notice" there shall be inserted " (which may be works of repair or improvement or both) " and for the words "seventh day after the notice becomes operative" there shall be substituted " twenty-eighth day after the notice is served ", and in paragraph (b) after the words "dwelling-house" there shall be inserted " or, as the case may be, house in multiple occupation ".

(5) In subsection (3) of that section—

(a) after the words "serving the notice" there shall be inserted " (a) ";

(b) after the words "building concerned" there shall be inserted "or

(b) on the person having control of or, as the case may be, on the person managing the house in multiple occupation which is concerned"; and

(c) in the words following paragraph (b), as set out above, for the words "or part of the building" there shall be substituted " part of the building or house ".

(6) After subsection (5) there shall be added the following subsection—

"(6) This section has effect subject to the provisions of section 190A."

2 (1) In section 190 (repair notice in respect of house in state of disrepair but not unfit)—

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(a) at the beginning of each of subsections (1) and (1A) there shall be inserted the words " Subject to subsection (1B) ";

(b) in subsection (1), after the words "dwelling-house", in each placewhere they occur, there shall be inserted " or house in multiple occupation " and at the end of paragraph (b) of that subsection there shall be added " or, in the case of a house in multiple occupation, the persons occupying it (whether as tenants or licensees) "; and

(c) in subsection (1A) after the words "a flat" there shall be inserted " including a flat in multiple occupation " and at the end of paragraph (b) of that subsection there shall be added " or, in the case of a flat in multiple occupation, the persons occupying it (whether as tenants or licensees) ".

(2) After subsections (1A) there shall be inserted the following subsections—

"(1B) The authority may not serve a notice under subsection (1) or subsection (1A) unless—

(a) there is an occupying tenant of the dwelling-house or flat concerned; or

(b) the dwelling-house or building concerned falls within a renewal area within the meaning of Part VII of the Local Government and Housing Act 1989.

(1C) In the case of a house in multiple occupation, a notice under subsection (1) or subsection (1A) may be served on the person managing the house instead of on the person having control of it; and where a notice is so served, then, subject to section 191, the person managing the house shall be regarded as the person having control of it for the purposes of the provisions of this Part following that section."

(3) In subsection (2)(a) of that section for the words "seventh day after the notice becomes operative" there shall be substituted " twenty-eighth day after the notice is served ".

(4) In subsection (3) of that section—

(a) after the words "serving the notice" there shall be inserted " (a) ";

(b) after the words "building concerned" there shall be inserted "or

(b) on the person having control of or, as the case may be, on the person managing the house in multiple occupation which is concerned"; and

(c) in the words following paragraph (b), as set out above, for the words "or part of the building" there shall be substituted " part of the building or house ".

3 After that section there shall be inserted the following section—

"**190A Effect on section 189 of proposal to include premises in group repair scheme.**

(1) A local housing authority shall not be under a duty to serve a repair notice under subsection (1) or, as the case may be, subsection (1A) of section 189 if, at the same time as they satisfy themselves as mentioned in thesubsection in question, they determine—

(a) that the premises concerned form part of a building which would be a qualifying building in relation to a group repair scheme; and

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(b) that, within the period of twelve months beginning at that time, they expect to prepare a group repair scheme in respect of the qualifying building (in this section referred to as a "relevant scheme");

but where, having so determined, the authority do serve such a notice, they may do so with respect only to those works which, in their opinion, will not be carried out to the premises concerned in pursuance of the relevant scheme.

(2) Subject to subsection (3), subsection (1) shall apply in relation to the premises concerned from the time referred to in subsection (1) until the date on which the works specified in a relevant scheme are completed to the authority's satisfaction (as certified under section 130(1) of the Local Government and Housing Act 1989).

(3) Subsection (1) shall cease to have effect in relation to the premises concerned on the day when the first of the following events occurs, that is to say,—

(a) the local housing authority determine not to submit a relevant scheme to the Secretary of State for approval; or

(b) the expiry of the period referred to in subsection (1)(b) without either the approval of a relevant scheme within that period or the submission of a relevant scheme to the Secretary of State within that period; or

(c) the Secretary of State notifies the authority that he does not approve a relevant scheme; or

(d) the authority ascertain that a relevant scheme, as submitted or approved, will not, for whatever reason, involve the carrying out of any works to the premises concerned.

(4) In any case where, in accordance with subsection (1), the authority serve a repair notice under subsection (1) or, as the case may be, subsection (1A)of section 189 with respect only to certain of the works which would otherwise be specified in the notice, subsection (2)(b) of that section shall have effect with respect to the notice as if after the word "notice" there were inserted the words " when taken together with works proposed to be carried out under a group repair scheme ".

(5) In this section and section 189 "group repair scheme" and "qualifying building" have the same meaning as in Part VIIIof the Local Government and Housing Act 1989."

4 (1) In section 191 (appeals against repair notices), in subsection (1A) after the words "dwelling-house" there shall be inserted " house in multiple occupation " and after that subsection there shall be inserted the following subsection—

"(1B) Without prejudice to the generality of subsection (1), it shall be a ground of appeal, in the case of a repair notice under section 189, that making a closing order under section 264 or a demolition order under section 265 is the most satisfactory course of action; and, where the grounds on which an appeal is brought are or include that specified in this subsection, the court, on the hearing of the appeal, shall have regard to any guidance given to the local housing authority under section 604A."

(2) In subsection (3) of that section the words "(repair notice in respect of unfit dwelling-house)" shall be omitted and for the words from "the judge shall" onwards there shall be substituted— " and the reason or one of the reasons for allowing the appeal is that

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making a closing order under section 264 or a demolition order under section 265 is the most satisfactory course of action, the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgement a finding to that effect ".

(3) In subsection (3B) of that section after the words "dwelling-house", in both places where they occur, there shall be inserted " or house in multiple occupation ".

5 After that section there shall be inserted the following section—

"**191A Execution of works by local housing authority by agreement**

(1) The local housing authority may by agreement with the person having control of any premises execute at his expense any works which he is required to execute in respect of the premises in pursuance of a repair notice served under section 189 or section 190.

(2) For that purpose the authority shall have all such rights as that person would have against any occupying tenant of, and any other person having an interest in, the premises (or any part of the premises)."

6 Section 192 (power to purchase house found on appeal to be unfit and beyond repair at reasonable expense) shall cease to have effect.

7 In section 193 (power of local housing authority to execute works), in subsection (4) after the words "dwelling-house" there shall be inserted " house in multiple occupation " and for the words "in default of the person on whom the repair notice was served" there shall be substituted " in a case where the repair notice has not been complied with ".

8 (1) In section 197 (powers of entry), in subsection (1)—

(a) for the words "24 hours"' there shall be substituted " seven days' ";

(b) at the end of paragraph (a) there shall be inserted " or "; and

(c) paragraph (c) and the word "or" immediately preceding it shall beomitted.

(2) At the end of subsection (2) of that section there shall be added the words " and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ".

9 In section 198 (penalty for obstruction), in subsection (1) after the word "offence" there shall be inserted " intentionally ".

10 Section 205 (application of provisions to temporary or movable structures) shall cease to have effect.

11 Section 206 (repair at reasonable expense) shall cease to have effect.

12 (1) In section 207 (minor definitions), in subsection (1) in the definition beginning "dwelling-house" after the word "flat", in the first place where it occurs, there shall be inserted " other than in the expression "flat in multiple occupation" " and after that definition there shall be inserted—

""house in multiple occupation" and "flat in multiple occupation" have the same meaning as in Part XI".

(2) In that subsection for the definition beginning "occupying tenant" there shall be substituted—

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""occupying tenant", in relation to a dwelling-house, means a person (other than an owner-occupier) who—

(a) occupies or is entitled to occupy the dwelling-house as a lessee; or

(b) is a statutory tenant of the dwelling-house; or

(c) occupies the dwelling-house as a residence under a restricted contract; or

(d) is a protected occupier, within the meaning of the Rent (Agriculture) Act 1976; or

(e) is a licensee under an assured agricultural occupancy;"

(3) In that subsection after the definition of "owner" there shall be inserted—

""owner-occupier", in relation to a dwelling-house, means theperson who, as owner or lessee under a long tenancy, within the meaning of Part I of the Leasehold Reform Act 1967, occupies or is entitled to occupy the dwelling-house;

"person managing" has the same meaning as in Part XI".

(4) In that subsection in the definition beginning "person having control" for the words "subject to section 191(3A)" there shall be substituted " subject to sections 189(1B), 190(1C) and 191 " and in paragraph (a) after the words "dwelling-house" there shall be inserted " or house in multiple occupation ".

(5) In that subsection in the definition beginning "premises" after the words "dwelling-house" there shall be inserted " house in multiple occupation ".

(6) In subsection (2) of that section after the words "dwelling-house", in the first place where they occur, there shall be inserted " or house in multiple occupation ".

13 In section 208 (index of defined expressions for Part VI)—

(a) the entries beginning "house" and "reasonable expense" shall be omitted;

(b) in the entry beginning "occupying tenant" for the words in the second column there shall be substituted " section 207 "; and

(c) at the appropriate places in alphabetical order there shall be inserted the following entries—

"dwelling-house	sections 205 and 207
flat	section 207
house in multiple occupation (and flat in multiple occupation)	section 345
owner-occupier	section 207
person managing	section 398
premises	section 207
restricted contract	section 622
statutory tenant	section 622"

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PART II

AMENDMENTS OF PART IX

14 For sections 264 (power to accept undertaking as to reconstruction or use of unfit house) and 265 (demolition or closing order to be made where no undertaking accepted or undertaking broken) there shall be substituted the following sections—

"**264 Power to make closing order.**

(1) Where the local housing authority are satisfied that a dwelling-house or house in multiple occupation is unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a closing order with respect to the dwelling-house or house in multiple occupation.

(2) Where the local housing authority are satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a closing order with respect to the whole or part of the building.

(3) In deciding for the purposes of subsection (2)—

(a) whether to make a closing order with respect to the whole or part of thebuilding; or

(b) in respect of which part of the building to make a closing order;

the authority shall have regard to such guidance as may from time to time be given by the Secretary of State under section 604A.

(4) This section has effect subject to section 300(1) (power to purchase for temporary housing use houses liable to be demolished or closed).

265 Power to make demolition order.

(1) Where the local housing authority are satisfied that—

(a) a dwelling-house which is not a flat, or

(b) a house in multiple occupation which is not a flat in multiple occupation,

is unfit for human habitation and that, in accordance with section 604A,taking action under this subsection is the most satisfactory course of action, they shall make a demolition order with respect to the dwelling-house or house concerned.

(2) Where the local housing authority are satisfied that, in a building containing one or more flats, some or all of the flats are unfit for human habitation and that, in accordance with section 604A, taking action under this subsection is the most satisfactory course of action, they shall make a demolition order with respect to the building.

(3) This section has effect subject to sections 300(1) (power to purchase for temporary housing use houses liable to be demolished or closed) and 304(1) (listed buildings and buildings protected by notice pending listing)."

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15 Section 266 (power to make closing order as to part of building) shall cease to have effect.

16 (1) In section 268 (service of notice of order), in subsection (1), paragraph (a) shall be omitted and in paragraph (b) the word "other" shall be omitted.

(2) After that subsection there shall be inserted the following subsection—

"(1A) Where the premises in respect of which a demolition or closing order is made is a building or part of a building containing flats, any reference in paragraphs (b) and (c) of subsection (1) to "the premises" includes a reference to the flats in the building or part of the building concerned."

17 (1) In section 269 (right of appeal against order), in subsection (2) after the word "premises" there shall be inserted " or part of the premises ".

(2) After that subsection there shall be inserted the following subsection—

"(2A) Without prejudice to the generality of subsection (1), it shall be aground of appeal—

(a) in the case of a closing order, that serving a repair notice under section 189 or making a demolition order under section 265 is the most satisfactory course of action; and

(b) in the case of a demolition order, that serving a repair notice under section 189 or making a closing order under section 264 is the most satisfactory course of action;

and, where the grounds on which an appeal is brought are or include that specified in paragraph (a) or paragraph (b), the court, on hearing the appeal, shall have regard to any guidance given to the local housing authority under section 604A."

(3) In subsection (3) of that section, paragraph (b) and the word "and" immediately preceding it shall be omitted.

(4) After that subsection there shall be inserted the following subsection—

"(3A) Where an appeal is allowed against a closing or demolition order and the reason or one of the reasons for allowing the appeal is that specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (2A), the judge shall, if requested to do so by the appellant or the local housing authority, include in his judgement a finding to that effect."

(5) Subsections (4) and (5) of that section shall cease to have effect.

18 (1) In section 270 (demolition orders: recovery of possession of building to be demolished), in subsection (1)—

(a) after the word "operative" there shall be inserted " with respect to any premises ";

(b) for the words from "the occupier" to "relates" there shall be substituted " any occupier of the premises or any part of the premises ";and

(c) in paragraphs (b) and (c) for the word "building" there shall be substituted " premises ".

(2) In subsections (2), (3), (4) and (5) of that section—

(a) for the words "the building", in each place where they occur, there shall be substituted " the premises ";

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(b) for the word "it", in each place where it occurs, there shall be substituted " them "; and

(c) for the words "a building", in each place where they occur, there shall be substituted " any premises ".

19 In section 273 (demolition orders: cleansing before demolition), in subsection (4) for the word "house" there shall be substituted " premises ".

20 (1) In section 274 (demolition orders: power to permit reconstruction of condemned house), in subsection (1) for the word "house", in each place where it occurs, there shall be substituted " premises ".

(2) In subsection (2) of that section—

(a) for the word "houses" there shall be substituted " dwelling-houses or houses in multiple occupation ";

(b) for the word "house" there shall be substituted " premises "; and

(c) for the word "it" there shall be substituted " them ".

(3) In subsection (4) of that subsection—

(a) for the words "a house" there shall be substituted " any premises ";

(b) for the word "it" there shall be substituted " them "; and

(c) for the words "the house" there shall be substituted " the premises or part of the premises ".

21 (1) In section 275 (demolition orders: substitution of closing order to permit use otherwise than for human habitation), in subsection (1)—

(a) for the words "a house" there shall be substituted " any premises "; and

(b) for the words "the house", in each place where they occur, there shall be substituted " the premises ".

(2) In subsection (2) of that section, for the words following "on" there shall be substituted " every person on whom they would be required by section 268 to serve a copy of a closing order made under section 264 ".

22 In section 278 (closing orders: determination of order on premises being rendered fit), in subsection (1) for the words "premises", in the first place where they occur, there shall be substituted " dwelling-house, house in multiple occupation or, in the case of a building containing flats, the flats concerned ".

23 (1) In section 279 (closing orders: substitution of demolition order), in subsection (1) for the words "subsection (2)" there shall be substituted " subsections (2) and (2A) ".

(2) In subsection (2) of that section the words "section 266 (parts of buildings and underground rooms)"shall be omitted.

(3) After that subsection there shall be inserted the following subsection—

"(2A) The power conferred by subsection (1) is not exercisable in relation to a closing order made under section 264(1) where the dwelling-house concerned is a flat or, as the case may be, where the house in multiple occupation is a flat in multiple occupation."

24 Sections 280, 281 and 282 (which relate to the closing etc. of underground rooms) shall cease to have effect.

25 (1) In section 289 (declaration of clearance area), in subsection (2)—

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(a) at the beginning there shall be inserted the words "Subject to subsections (2B) to (2F), (4) and (5B)";

(b) in paragraph (a) for the words "houses in the area" there shall be substituted " buildings in the area which are dwelling-houses or houses in multiple occupation or contain one or more flats (in this section referred to as "residential buildings") "; and

(c) in the words following paragraph (b) after the word "and" there shall be inserted " in accordance with subsection 604A " and for the words "method of dealing with the conditions in the area" there shall be substituted " course of action ".

(2) After that subsection there shall be inserted the following subsections—

"(2A) A residential building containing one or more flats shall be treated for the purposes of this section as unfit for human habitation if some or all of the flats within it are unfit for human habitation.

(2B) Before declaring an area to be a clearance area, the authority shall—

(a) serve notice of their intention to include a building in the clearance area on every person who has an interest in the building (whether as freeholder, lessee or mortgagee) and also, in the case of a residential building, on every person who has such an interest in any flat in the building; and

(b) take reasonable steps to inform any occupiers of a residential building who do not have such an interest in the building or a flat in the building as is referred to in paragraph (a) of their intention to include the building inthe clearance area; and

(c) publish in two or more newspapers circulating in the locality (of which one at least shall, if practicable, be a local newspaper) notice of their intention to declare the area to be a clearance area.

(2C) A notice served under paragraph (a) of subsection (2B) shall invite representations from the person on whom the notice was served within such reasonable period, being not less than twenty-eight days after the date on which the notice is served, as may be specified in the notice.

(2D) The authority shall, by the steps taken in relation to occupiers of a residential building as mentioned in paragraph (b) of subsection (2B), invite representations from those occupiers within such reasonable period, expiring not less than twenty-eight days after the date on which the steps are taken,as may be specified by the authority.

(2E) A notice published in accordance with paragraph (c) of subsection (2B) shall invite representations from any interested persons within such reasonable period, being not less than twenty-eight days after the date on which the notice is published, as may be specified in the notice.

(2F) The authority shall consider all representations made under subsections (2C), (2D) and (2E) and, in the light of the representations, shall take whichever of the following decisions they think appropriate, that is to say—

(a) they may decide to declare the area to be a clearance area; or

(b) they may decide to declare the area to be a clearance area but exclude such residential buildings which are unfit for human habitation as they think fit; or

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(c) they may decide not to declare the area to be a clearance area."

(3) In subsection (3) of that section,—

(a) for the words "If the authority are so satisfied" there shall be substituted the words " Subject to subsection (5B), where the authority decide to declare an area to be a clearance area in accordance with paragraph(a) or paragraph (b) of subsection (2F) "; and

(b) in paragraph (a), for the words from "any building" onwards there shall be substituted—

"(i) any residential building which is not unfit for human habitation or dangerous or injurious to health;

(ii) any other building which is not dangerous or injurious to health; and

(iii) any residential buildings which, by virtue of subsection (2F)(b), they have decided to exclude from the area; and"

(4) After subsection (5) there shall be inserted the following subsections—

"(5A) Where a residential building which is unfit for human habitation is not included within a clearance area, whether by virtue of paragraph (b) or paragraph (c) of subsection (2F), the authority shall forthwith, in accordance with section 604A (disregarding guidance under that section in respect of this section), take action in respect of the building (and any flat contained within it) under whichever of sections 189, 264 and 265 it considers to be the most satisfactory course of action.

(5B) Subject to section 578A, a clearance area may not include any parcel of land which is not contiguous with another parcel of land within the area; and,where the effect of subsection (3) would otherwise be that a clearance area would comprise two or more separate and distinct areas, paragraph (b) of that subsection shall have effect as if for the words "pass a resolution declaring the area so defined" there were substituted " if the effect of paragraph (a) would otherwise be that the area would comprise two or more separate and distinct areas, pass a separate resolution in respect of each of those areas declaring each of them "."

26 In section 291 (method of dealing with land acquired for clearance), in subsection (3) the words "Schedule 11 (rehabilitation orders)" shall be omitted.

27 (1) In section 294 (extinguishment of public rights of way over land acquired), at the end of subsection (1) there shall be added the words " as from such date as the Secretary of State in approving the order may direct ".

(2) In subsection (2) of that section for the words from "they may make"onwards there shall be substituted " an order made by the authority in advance of the purchase and approved by the Secretary of State (whether before or after the purchase) shall extinguish that right as from such date as the Secretary of State in approving the order may direct ".

(3) In subsection (3) of that section—

(a) for the word "six" there shall be substituted " four "; and

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(b) after the word "publication" there shall be inserted " then, subject to subsection (4) ".

(4) After that subsection there shall be inserted the following subsection—

"(4) The Secretary of State may dispense with such an inquiry as is referred to in subsection (3) if he is satisfied that in the special circumstances of the case the holding of such an inquiry is unnecessary."

28 Section 299 and Schedule 11 (rehabilitation orders in respect of houses in clearance areas) shall cease to have effect.

29 (1) In section 300 (purchase of houses liable to be demolished or closed), in subsection (1)—

(a) after the word "under" there shall be inserted " section 264 or ";

(b) for the word "house", in the first place where it occurs, there shall be substituted " dwelling-house (not being a flat), a house in multiple occupation (not being a flat in multiple occupation) or the whole of a building "; and

(c) for the word "house", in the second place where it occurs, there shall be substituted " dwelling-house, house in multiple occupation or, as the case may be, building ".

(2) In subsection (2) of that section—

(a) for the words "a house" there shall be substituted " any premises "; and

(b) in paragraph (b) for "269" there shall be substituted " 269(1), (2), (3) and (6) ".

(3) In subsection (3) of that section for the word "house" there shall be substituted " dwelling-house, house in multiple occupation or building ".

30 (1) In section 301 (retention of houses acquired for clearance), in subsection (1) for the word "houses", in each place where it occurs, there shall be substituted " residential buildings ".

(2) In subsection (2) of that section for the word "house", in each place where it occurs, there shall be substituted " residential building ".

(3) In subsection (3) of that section for the word "houses", in each place where it occurs, there shall be substituted " residential buildings ".

(4) After that subsection there shall be inserted the following subsection—

"(4) In this section and section 302 "residential building" has the same meaning as it has in section 289."

31 In section 302 (management and repair of house acquired under s. 300 or retained under s. 301)—

(a) for the word "house", in each place where it occurs except in paragraph (c), there shall be substituted " residential building "; and

(b) in paragraph (c) for the word "house" there shall be substituted " residential building or any flat in the building ".

32 (1) In section 304 (closing order to be in respect of listed building), in subsection (1)—

(a) for the words from "(unfit" to "cost)" there shall be substituted " (power to make demolition order) "; and

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(b) for the words "that section" there shall be substituted " section 264 ".

(2) In subsection (2) of that section—

(a) for the word "house", in each place where it occurs, there shall be substituted " dwelling-house, house in multiple occupation or building ";and

(b) for the words "section 265" there shall be substituted " section 264 ".

(3) In subsection (3) of that section for the word "house", in each place where it occurs, there shall be substituted " dwelling-house, house in multiple occupation or building ".

33 (1) In section 305 (building becoming listed when subject to compulsory purchase for clearance), in subsection (5)—

(a) for the word "building", in the first place where it occurs, there shall be substituted " residential building "; and

(b) for the words from "take whichever" onwards there shall be substituted the words " in accordance with section 604A (disregarding guidance under that section in respect of sections 265 and 289), take action under whichever of sections 189 and 264 it considers to be the most satisfactory course of action. "

(2) In subsection (6) of that section for the word "house", in each place where it occurs, there shall be substituted " residential building ".

(3) After subsection (7) of that section there shall be inserted the following subsection—

"(8) In this section "residential building" has the same meaning as in section 289; and subsection (2A) of that section shall apply in determining whether a residential building containing one or more flats is unfit for human habitation for the purposes of subsection (4) as it applies for the purposes of that section."

34 In section 306 (building becoming listed when acquired by agreement for clearance), in subsection (2), in paragraph (b) for the word "house" there shall be substituted " residential building (within the meaning of section 289) ".

35 In section 309 (recovery of possession of premises for purposes of approved re-development), in subsection (2) for the word "house", in each place where it occurs, there shall be substituted " dwelling-house ".

36 (1) In section 310 (certificate of fitness resulting from owner's improvements or alterations), in subsection (1)—

(a) for the word "house", in the first place where it occurs, there shall be substituted " dwelling-house, house in multiple occupation or building containing one or more flats "; and

(b) for the word "house", in the second place where it occurs, there shall be substituted " dwelling-house, the house or the flat or flats in the building ".

(2) In subsection (3) of that section for the words "house is" there shall be substituted " dwelling-house or house is or, as the case may be, the flat or flats in the building is or are ".

(3) In subsection (4) of that section for the word "house", in each place where it occurs, there shall be substituted " dwelling-house, house in multiple occupation or building ".

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37 In section 315 (power of court to order occupier or owner to permit things to be done), in subsection (1)—

(a) in paragraph (a) the words "or person having control" shall be omitted; and

(b) in paragraph (b) for the words "owner or person having control" there shall be substituted " or owner ".

38 In section 318 (power of court to authorise execution of works on unfit premises or for improvement), in subsection (1) for the word "houses" there shall be substituted " dwelling-houses or houses in multiple occupation or both ".

39 (1) In section 319 (powers of entry), in subsection (1) for the words "24 hours" there shall be substituted " seven days ".

(2) At the end of subsection (2) of that section there shall be added the words " and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ".

40 (1) In section 320 (penalty for obstruction), in subsection (1) after the word "offence" there shall be inserted " intentionally ".

(2) In subsection (2) of that section for the words "level 2" there shall be substituted " level 3 ".

41 Section 321 (repair at reasonable expense) shall cease to have effect.

42 In section 322 (minor definitions)—

(a) for the definition of "house" there shall be substituted—

""dwelling-house" and "flat", except in the expression "flat in multiple occupation", shall be construed in accordance with subsection (2) and "the building", in relation to a flat, means the building containing the flat;

"house in multiple occupation" and "flat in multiple occupation" have the same meaning as in Part XI"

(b) the definition of "person having control" shall be omitted; and

(c) at the end there shall be added—

""premises", in relation to a demolition or closing order, means the dwelling-house, house in multiple occupation, building or part of a building in respect of which the closing order or, as the case may be,demolition order is made.

(2) For the purposes of this Part, "dwelling-house" includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat.

(3) Except where the context otherwise requires, any reference in this Part (other than this section) to a flat is a reference to a dwelling-house which is a flat or to a flat in multiple occupation."

43 In section 323 (index of defined expressions: Part IX)—

(a) the entries beginning "the full standard", "general improvement area", "house", "land liable to be cleared", "person having control", "slum clearance functions", "slum clearance subsidy" and "year" shall be omitted

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(b) in the entries beginning "fit (or unfit) for human habitation" and "unfit (or fit) for human habitation" for the words in the second column there shall be substituted " section 604 "; and

(c) at the appropriate places in alphabetical order there shall be inserted the following entries—

"dwelling-house	sections 266 and 322
flat	section 322
house in multiple occupation	section 322
premises	section 322"

PART III

AMENDMENTS OF PART XI

44 At the end of section 345 (meaning of "multiple occupation") there shall be added the following subsection—

"(2) For the purposes of this section "house", in the expression "house in multiple occupation", includes any part of a building which—

(a) apart from this subsection would not be regarded as a house; and

(b) was originally constructed or subsequently adapted for occupation by a single household;

and any reference in this Part to a flat in multiple occupation is a reference to a part of a building which, whether by virtue of this subsectionor without regard to it, constitutes a house in multiple occupation."

F347 45 . . . . . .

Textual Amendments

F347 Sch. 9 para. 45 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

F348 46 . . . . . .

Textual Amendments

F348 Sch. 9 para. 46 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

F349 47 . . . . . .

Textual Amendments

F349 Sch. 9 para. 47 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

48 (1) In section 350 (power to require information for purposes of scheme), in subsection (1) the words "or building", in each place where they occur, shall be omitted.

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(2) In subsection (2) of that section after the word "exceeding" there shall be inserted " (a) " and at the end there shall be added "in the case of such a failure; or

(b) level 3 on the standard scale in the case of such a mis-statement"

49 (1) In section 352 (power to require execution of works to render premises fit for number of occupants), in subsection (1) at the beginning there shall be inserted " Subject to section 365 " and for the words from "the condition of a house" onwards there shall be substituted—

"in the opinion of the authority, a house in multiple occupation fails to meet one or more of the requirements in paragraphs (a) to (e) of subsection (1A) and, having regard to the number of individuals or households or both for the time being accommodated on the premises, by reason of that failure the premises are not reasonably suitable for occupation by those individuals or households.

(1A) The requirements in respect of a house in multiple occupation referred to in subsection (1) are the following, that is to say,—

(a) there are satisfactory facilities for the storage, preparation and cooking of food including an adequate number of sinks with a satisfactory supply of hot and cold water;

(b) it has an adequate number of suitably located water-closets for the exclusive use of the occupants;

(c) it has, for the exclusive use of the occupants, an adequate number of suitably located fixed baths or showers and wash-hand basins each of which is provided with a satisfactory supply of hot and cold water;

(d) subject to section 365, there are adequate means of escape from fire; and

(e) there are adequate other fire precautions."

(2) In subsection (2) of that section, at the beginning there shall be inserted " Subject to subsection (2A) ", for the word "premises", in both places where it occurs, there shall be substituted " house " and at the end of that subsection there shall be added — " but the notice shall not specify any works to any premises outside the house "

(3) After that subsection there shall be inserted the following subsection—

"(2A) Where the authority have exercised or propose to exercise their powers under section 368 to secure that part of the house is not used for human habitation, they may specify in the notice such work only as in their opinion is required to meet such of the requirements in subsection (1A) as may be applicable if that part is not so used."

(4) In subsection (3) of that section for paragraph (b) there shall be substituted—

"(e) on the person managing the house;"; and in the words following that paragraph after the word "lessee" there shall be inserted " occupier ".

(5) After subsection (5) of that section there shall be inserted the following subsections—

"(5A) A notice served under this section is a local land charge.

(5B) Each local housing authority shall—

(a) maintain a register of notices served by the authority under subsection (1) after the coming into force of this subsection;

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(b) ensure the register is open to inspection by the public free of charge at all reasonable hours; and

(c) on request, and on payment of any such reasonable fee as the authority may require, supply copies of entries in the register to any person."

(6) Subsection (6) of that section shall cease to have effect.

50 In each of the following provisions, that is to say—

(a) section 352, in subsection (4) (effect of notice), and

(b) section 372 (power to require execution of works to remedy neglect of management), in subsection (3) (effect of notice),

for the words from "within such period" onwards there shall be substituted the words "as follows, namely,—

(a) to begin those works not later than such reasonable date, being not earlier than the twenty-first day after the date of service of the notice, as is specified in the notice; and

(b) to complete those works within such reasonable period as is so specified."

51 In section 353 (appeal against notice under section 352), in subsection (2)—

(a) in paragraph (a) for the words "considerations set out in subsection (1)" there shall be substituted " requirements set out in subsection (1A) "; and

(b) after paragraph (d) there shall be inserted—

"(dd) that the date specified for the beginning of the works is not reasonable"

52 In section 354 (power to limit number of occupants of house), in subsection (1), in paragraph (a) for the words "considerations set out in subsection (1)" there shall be substituted " requirements set out in subsection (1A) ".

53 (1) In section 365 (means of escape from fire: general provisions as to exercise of powers) for subsections (1) and (2) there shall be substituted the following subsections—

"(1) In any case where—

(a) the local housing authority have the power to serve a notice under subsection (1) of section 352 in respect of a house in multiple occupation,and

(b) the reason, or one of the reasons, by virtue of which that power arisesis a failure to meet the requirement in paragraph (d) of subsection (1A) of that section,

the authority shall in addition have the power for that reason to accept an undertaking or make a closing order under section 368 in respect of the house.

(2) Where by virtue of subsection (1) the local housing authority have powers in respect of a house in multiple occupation to serve a notice under section 352(1) for the reason mentioned in subsection (1)(b) and to accept an undertaking or make a closing order under section 368, they may exercise such of those powers as appear to them appropriate; and where the house is of such description or is occupied in such manner as the Secretary of State

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may specify by order for the purposes of this subsection, the authority shall be under a duty to so exercise those powers.

(2A) The local housing authority shall not serve a notice under section 352(1) for the reason mentioned in subsection (1)(b) or accept an undertaking or make a closing order under section 368 if the house is of such description or is occupied in such manner as the Secretary of State may specify by order for the purposes of this subsection."

F350(2) . . . . . .

(3) In subsection (4) of that section F351. . . at the end F351. . . there shall be inserted the following subsection—

"(5) Nothing in this section affects the power of the local housing authority to serve a notice under subsection (1) of section 352 if the house also fails to meet one or more of the requirements in paragraphs (a) to (c) and (e) ofsubsection (1A) of that section."

Textual Amendments

F350 Sch. 9 para. 53(2) repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

F351 Words in Sch. 9 para. 53(3) repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

54 Sections 366 and 367 (means of escape from fire: power by notice to require execution of works and appeals against notice) shall cease to have effect.

55 (1) In section 368 (means of escape from fire: power to secure that part of house not used for human habitation), in subsection (1) at the beginning there shall be inserted " Subject to section 365 ".

F352(2) . . . . . .

(3) In subsection (5) of that section—

(a) for the words from "section 265" to "unfit for human habitation)" there shall be substituted " section 264 ";

(b) for the words "the modification that" there shall be substituted "with the following modifications—

(i) the reference in section 278(1) (premises rendered fit) to the house in multiple occupation shall be construed as a reference to the part of the house in respect of which the closing order under subsection (4) is made;

(b)"

; and

(c) at the end there shall be added "and

(i) section 279 (substitution of demolition orders) shall be omitted"

Textual Amendments

F352 Sch. 9 para. 55(2) repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

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56 (1) In section 369 (the management code for houses in multiple occupation) at the beginning of subsection (2) there shall be inserted " Subject to subsection (2A) " and after the words "all means of water supply and drainage in the house" there shall be inserted— " all means of escape from fire and all apparatus, systems and other things provided by way of fire precautions; ";and at the end of that subsection there shall be added the words " and to ensure that all means of escape from fire are kept clear of obstructions ".

(2) After subsection (2) of that section there shall be inserted the following subsection—

"(2A) The person managing the house shall only be liable by virtue of the regulations under subsection (2) to ensure the repair, maintenance, cleansing and good order of any premises outside the house if and to the extent that he has power or is otherwise liable to ensure those matters in respect of any such premises."

(3) In subsection (3) of that section, paragraphs (b) and (f) and in paragraph (c) the words from "and in particular" onwards shall be omitted.

(4) In subsection (5) of that section the words "as applied under section 370 in relation to a house" shall be omitted.

57 Sections 370 and 371 (application of the management code to a house by order of the local housing authority and appeals relating to such orders) shall cease to have effect; and in section 381(4) of that Act "370" shall be omitted.

58 In section 372 (power of local housing authority to require execution of works to remedy neglect of management), in subsection (1)—

(a) the words from "to which" to "management code)" in the first place where they occur, and

(b) paragraph (b) and the word "or" immediately preceding it,

shall be omitted.

59 In section 373 (appeal against notice under section 372), in subsection (2), after paragraph (c) there shall be inserted—

"(cc) that the date specified for the beginning of the works is not reasonable".

60 Section 374 (application of code etc. to buildings other than houses) shall cease to have effect.

61 In section 375 (carrying out of works by local housing authority), for subsections (2) and (3) (compliance with notice and carrying out of works in default) there shall be substituted the following subsections—

"(2) Compliance with a notice means beginning and completing the works specified in the notice—

(a) if no appeal is brought against the notice, not later than such date and within such period as is specified in the notice;

(b) if an appeal is brought against the notice and is not withdrawn, not later than such date and within such period as may be fixed by the court determining the appeal; and

(c) if an appeal brought against the notice is withdrawn, not later than the twenty-first day after the date of withdrawal of the appeal and within such period (beginning on that twenty-first day) as is specified in the notice.

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(3) If, before the expiry of the period which under subsection (2) isappropriate for completion of the works specified in the notice, it appears to the local housing authority that reasonable progress is not being made towards compliance with the notice, the authority may themselves do the work required to be done by the notice.

(3A) Not less than seven days before a local housing authority enter any house for the purpose of doing any works by virtue of subsection (1) or subsection (3), they shall serve notice of their intention to do so on the person on whom the notice referred to in subsection (1) was served and, if they think fit, also on any other owner of the house.

(3B) If, after a local housing authority have served notice under subsection (3A), the works are in fact carried out (otherwise than by the authority), any administrative and other expenses incurred by the authority with a view to doing the work themselves in accordance with subsection (1) or subsection (3) shall be treated for the purposes of subsection (4) (and Schedule 10) as expenses incurred by them under this section in carrying out the works in a case where the notice referred to in subsection (1) has not been complied with."

62 In section 376 (penalty for failure to execute works), in subsection (2) (further offence), for the words "that the period for compliance has expired" there shall be substituted " the expiry of the period which under section 375(2) is appropriate for completion of the works in question ".

F353 63 . . . . . .

Textual Amendments

F353 Sch. 9 para. 63 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

64 In section 378 (provisions for protection of owners), in subsection (2) for paragraph (b) there shall be substituted—

"(e) to which regulations under section 369 (the management code) apply".

65 In section 379 (making of control order), in subsection (1) paragraph (c)except for the final "or" shall be omitted.

F354 66 . . . . . .

Textual Amendments

F354 Sch. 9 para. 66 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

67 In section 395 (power of entry), at the end of subsection (3), there shall be added the words " and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ".

68 (1) In section 396 (penalty for obstruction), in subsection (1) after the words "offence" there shall be inserted " intentionally ".

F355 (2) . . . . . .

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Textual Amendments

F355 Sch. 9 para. 68(2) repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

69 In section 400 (index of defined expressions: Part XI), at the appropriate place in alphabetical order there shall be inserted the following entry—

"flat in multiple occupation	section 345".

70 (1) In Schedule 10 (recovery of expenses incurred by local housing authority),in paragraph 1 (introductory) for the words "in default of the person on whom the notice was served" there shall be substituted " in a case where the notice has not been complied with ".

(2) In paragraph 2 of that Schedule (recovery of expenses), in sub-paragraph(1)—

(a) in paragraph (a) after the words "dwelling-house" there shall be inserted " house in multiple occupation "; and

(b) for paragraph (b) there shall be substituted—

"(b) where the works were required by a notice under section 352 or 372 (notices relating to houses in multiple occupation), from the person having control of the house or the person managing the house, as the authority think fit;".

(3) Paragraph 5 of that Schedule (order for payment by instalments) shall cease to have effect and in paragraph 6 (appeals) after sub-paragraph (1A) there shall be inserted the following sub-paragraph—

"(1B) Where the demand for recovery of expenses relates to works carried out by virtue of subsection (3) of section 375, it shall be a ground of appeal that, at the time the local housing authority served notice under subsection (3A)of that section, reasonable progress was being made towards compliance with the notice in question."

(4) After paragraph 6 of that Schedule there shall be inserted the following paragraph—

" Expenses and interest recoverable from occupiers

6A (1) Where a demand becomes operative by virtue of paragraph 3(3) or 6(3), the local housing authority may serve notice on any person—

(a) who occupies the premises concerned, or part of those premises, as the tenant or licensee of the person on whom the demand was served under paragraph 3(1), and

(b) who, by virtue of his tenancy or licence, pays rent or any sum in the nature of rent to the person on whom the demand was served,

stating the amount of expenses recoverable by the authority and requiring all future payments of rent or sums in the nature of rent, whether already accrued due or not, by such tenant or licensee to be made direct to the authority until the expenses recoverable by the authority, together with interest accrued due, have been duly paid.

(2) In the case of a demand which was served on any person as agent or trustee for another person (in this sub-paragraph referred to as "the principal or beneficiary") sub-paragraph (1) shall have effect as if the

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reference in each of paragraphs (a) and (b) to the person on whom the demand was served were a reference to that person or the principal or beneficiary.

(3) Subject to sub-paragraph (4), where a notice is served under sub-paragraph (1) then, unless the authority by further notice served on the tenant or licensee otherwise direct, it shall operate to transfer to the authority the right to recover, receive and give a discharge for the rent or sums in the nature of rent.

(4) The right of the authority to recover, receive and give a discharge for any rent or sums in the nature of rent by virtue of this paragraph shall be postponed to any right in respect of that rent or those sums which may at anytime be vested in a superior landlord by virtue of a notice under section 6 of the Law of Distress Amendment Act 1908."

71 In Schedule 13 (further provision relating to control orders under Part XI of that Act) in sub-paragraph (4) of paragraph 21—

(a) in paragraph (a) the word "366" shall be omitted;

(b) at the end of paragraph (a) there shall be inserted " or ";

(c) paragraph (c) and the word "or" immediately preceding it shall be omitted; and

(e) in the words following paragraph (c) the words "or order" shall be omitted.

PART IV

AMENDMENTS OF PART XVII

72 After section 578 (general enactments relating to compulsory purchase etc.apply subject to this Part) there shall be inserted the following section—

"**578A Modification of compulsory purchase order in case of acquisition of land for clearance.**

(1) Subsection (2) applies where the local housing authority make a compulsory purchase order, within the meaning of the Acquisition of Land Act 1981, in respect of land they have determined to purchase under section 290 (acquisition of land comprised, surrounded by or adjoining a clearance area).

(2) Where this subsection applies, the Secretary of State may, in accordance with section 13 of the Acquisition of Land Act 1981 (confirmation of order),confirm the order with modifications notwithstanding that the effect of the modifications made by him in excluding any land or buildings from the clearance area concerned is to sever the area into two or more separate and distinct areas; and, in such a case, the severance shall not prevent those areas from continuing to be treated as one clearance area for the purposes of the provisions of Part IX."

73 Sections 579 to 581 (special provision as regards acquisition of land for clearance, incorporation of enactments relating to mineral rights and acquisition of commons, open spaces etc.) shall cease to have effect.

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74 In section 582 (restriction on recovery of possession after making compulsory purchase order), in subsection (1), in paragraph (a) the words from "section 192" to "beyond repair) or" shall be omitted.

75 After section 584 there shall be inserted the following sections—

"**584A Compensation payable in case of closing and demolition orders.**

(1) Subject to subsection (3), where a closing order under section 264 or a demolition order under section 265 is made in respect of any premises, the local housing authority shall pay to every owner of the premises an amount determined in accordance with subsection (2).

(2) The amount referred to in subsection (1) is the diminution in the compulsory purchase value of the owner's interest in the premises as a result of the making of the closing order or, as the case may be, the demolition order; and that amount—

(a) shall be determined as at the date of the making of the order in question;and

(b) shall be determined (in default of agreement) as if it were compensation payable in respect of the compulsory purchase of the interest in question and shall be dealt with accordingly.

(3) In any case where—

(a) a closing order has been made in respect of any premises, and

(b) by virtue of section 279 (closing orders: substitution of demolition order), the closing order is revoked and a demolition order is made in its place,

the amount payable to the owner under subsection (1) in connection with the demolition order shall be reduced by the amount (if any) paid to the owner or a previous owner under that subsection in connection with the closing order.

(4) For the purposes of this section—

"compulsory purchase value", in relation to an owner's interest in premises, means the compensation which would be payable in respect of the compulsory purchase of that interest if it fell to be assessed in accordance with the Land Compensation Act 1961; and

"premises" has the meaning assigned by section 322 (minor definitions for the purposes of Part IX).

584B Repayment on revocation of demolition or closing order.

(1) Where a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a demolition or closing order and—

(a) the demolition order is revoked under section 274 (revocation of demolition order to permit reconstruction of premises), or

(b) the closing order is determined under section 278 (determination of closing order on premises being rendered fit),

then, if at that time the person to whom the payment was made has the same interest in the premises as he had at the time the payment was made, he shall on demand repay to the authority the amount of the payment.

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(2) In any case where—

(a) a payment in respect of any premises has been made by a local housing authority under section 584A(1) in connection with a closing order, and

(b) by virtue of section 278, the order is determined as respects part of the premises, and

(c) the person to whom the payment was made (in this section referred to as "the recipient") had, at the time the payment was made, an owner's interest in the part of the premises concerned (whether or not he had such an interest in the rest of the premises),

then, if at the time of the determination of the closing order the recipient has the same interest in the premises as he had at the time the payment was made, he shall on demand pay to the authority an amount determined in accordance with subsections (3), (4) and (5).

(3) The amount referred to in subsection (2) is which ever is the less of—

(a) the amount by which the value of the interest of the recipient in thepremises increases as a result of the determination of the closing order; and

(b) the amount paid to the recipient under section 584A(1) in respect of his interest in the premises;

and the amount referred to in paragraph (a) shall be determined as at the date of the determination of the closing order.

(4) For the purpose of assessing the amount referred to in subsection (3)(a), the rules set out in section 5 of the Land Compensation Act 1961 shall, so far as applicable and subject to any necessary modifications, have effect as they have effect for the purpose of assessing compensation for the compulsory acquisition of an interest in land.

(5) Any dispute as to the amount referred to in subsection (3)(a) shall be referred to and determined by the Lands Tribunal; and section 2 and subsections (1)(a) and (4) to (6) of section 4 of the Land Compensation Act 1961 shall, subject to any necessary modifications, apply for the purposes of this section as they apply for the purposes of that Act.

(6) In this section "premises" has the same meaning as in section 584A."

76 Sections 585 to 595 (which concern site value compensation for unfit houses and related matters and certain other land compensation matters) shall cease to have effect.

77 Section 598 (disregard of things done to obtain increased compensation) shall cease to have effect.

78 In section 599 (application of compensation due to another local authority) the words from "section 192" to "beyond repair)" shall be omitted.

79 (1) In section 600 (powers of entry), in subsection (1) for the words "24 hours"' there shall be substituted " seven days "'.

(2) At the end of subsection (2) of that section there shall be added the words " and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ".

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80 (1) In section 601 (penalty for obstruction), in subsection (1) after the word "offence" there shall be inserted " intentionally ".

(2) In subsection (2) of that section for the words "level 2" there shall be substituted " level 3 ".

81 In section 602 (minor definitions)—

(a) the definition of "house" shall be omitted; and

(b) in paragraph (b) of the definition of "owner" after the word "premises" there shall be inserted " or part of the premises ".

82 For section 603 (index of defined expressions: Part XVII) there shall be substituted the following section—

"**603 Index of defined expressions: Part XVII.**

The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or otherwise explaining an expression used in the same section or paragraph):—

PART V

AMENDMENTS OF PART XVIII

83 For section 604 there shall be substituted the following section—

"**604 Fitness for human habitation.**

(1) Subject to subsection (2) below, a dwelling-house is fit for human habitation for the purposes of this Act unless, in the opinion of the local housing authority, it fails to meet one or more of the requirements in paragraphs (a) to (i) below and, by reason of that failure, is not reasonably suitable for occupation,—

(a) it is structurally stable;

(b) it is free from serious disrepair;

(c) it is free from dampness prejudicial to the health of the occupants (ifany);

(d) it has adequate provision for lighting, heating and ventilation;

(e) it has an adequate piped supply of wholesome water;

(f) there are satisfactory facilities in the dwelling-house for the preparation and cooking of food, including a sink with a satisfactory supply of hot and cold water;

(g) it has a suitably located water-closet for the exclusive use of the occupants (if any);

(h) it has, for the exclusive use of the occupants (if any), a suitably located fixed bath or shower and wash-hand basin each of which is provided with a satisfactory supply of hot and cold water; and

(i) it has an effective system for the draining of foul, waste and surface water;

and any reference to a dwelling-house being unfit for human habitation shall be construed accordingly.

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(2) Whether or not a dwelling-house which is a flat satisfies the requirements in subsection (1), it is unfit for human habitation for the purposes of this Act if, in the opinion of the local housing authority, the building or a part of the building outside the flat fails to meet one or more of the requirements in paragraphs (a) to (e) below and, by reason of that failure, the flat is not reasonably suitable for occupation,—

(a) the building or part is structurally stable;

(b) it is free from serious disrepair;

(c) it is free from dampness;

(d) it has adequate provision for ventilation; and

(e) it has an effective system for the draining of foul, waste and surfacewater.

(3) Subsection (1) applies in relation to a house in multiple occupation with the substitution of a reference to the house for any reference to a dwelling-house.

(4) Subsection (2) applies in relation to a flat in multiple occupation with the substitution for any reference to a dwelling-house which is a flat of a reference to the flat in multiple occupation.

(5) The Secretary of State may by order amend the provisions of subsection (1) or subsection (2) in such manner and to such extent as he considers appropriate; and any such order—

(a) may contain such transitional and supplementary provisions as the Secretary of State considers expedient; and

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

84 After that section there shall be inserted the following section—

"**604A Authority to consider guidance given by Secretary of State in deciding whether to take action under section 189, section 264, section 265 or section 289.**

(1) In deciding for the purposes of sections 189, 264, 265 and 289 whether the most satisfactory course of action, in respect of any dwelling-house, house in multiple occupation or building, is, if applicable,—

(a) serving notice under subsection (1) of section 189; or

(b) serving notice under subsection (1A) of that section; or

(c) making a closing order under subsection (1) of section 264; or

(d) making a closing order under subsection (2) of that section with respect to the whole or a part of the building concerned; or

(e) making a demolition order under subsection (1) of section 265; or

(f) making a demolition order under subsection (2) of that section; or

(g) declaring the area in which the dwelling-house, house in multiple occupation or building is situated to be a clearance area in accordance with section 289;

the local housing authority shall have regard to such guidance as may from time to time be given by the Secretary of State.

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(2) The Secretary of State may give guidance under subsection (1) to authorities generally or may give different guidance to different descriptions of authority or to authorities in different areas; and, without prejudice to the matters in respect of which the Secretary of State may give guidance, he may, in particular, give guidance in respect of financial and social considerations to be taken into account by authorities.

(3) Where the Secretary of State proposes to give guidance under subsection (1), or to revise guidance already given, he shall lay a draft of the proposed guidance or alterations before each House of Parliament and—

(a) he shall not give the guidance or revise the guidance until after the expiration of the period of forty 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 guidance or alterations be withdrawn he shall not proceed with the proposed alterations (but without prejudice to the laying of a further draft).

(4) In computing for the purposes of subsection (3) the period of forty 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."

85 For section 605 there shall be substituted the following section—

"**605 Consideration by local housing authority of housing conditions in their district.**

(1) The local housing authority shall at least once in each year consider the housing conditions in their district with a view to determining what action to take in performance of their functions under—

(a) Part VI (repair notices);

(b) Part IX (slum clearance);

(c) Part XI (houses in multiple occupation);

(d) Part VII of the Local Government and Housing Act 1989 (renewal areas); and

(e) Part VIII of that Act (grants towards cost of improvements and repairs etc.).

(2) For the purposes of carrying out their duty under subsection (1), the authority and their officers shall comply with any directions the Secretary of State may give and shall keep such records and supply him with such information as he may specify."

86 In section 606 (reports on particular houses or areas), for the word "house", in each place where it occurs, there shall be substituted " dwelling-house or house in multiple occupation ".

87 In section 608 (acquisition of ancient monuments etc.), in paragraph (a) the words from "section 192" to "beyond repair) or" shall be omitted.

88 In section 610 (power of court to authorise conversion of houses into flats), in subsection (1)—

(a) for the words "a house" there shall be substituted " any premises ";

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(b) for the word "house", in each subsequent place where it occurs, there shall be substituted " premises "; and

(c) in paragraph (a) for the words "is situated, it" there shall besubstituted " are situated, they " and for the words "tenement" and "tenements" there shall be substituted " dwelling-house " and " dwelling-houses " respectively.

89 In section 612 (exclusion of Rent Act protection) for the word "house" there shall be substituted " dwelling-house ".

90 (1) In section 623 (minor definitions: Part XVIII), for the definition of "house" there shall be substituted—

> ""dwelling-house" and "flat", except in the expression "flat in multiple occupation", shall be construed in accordance with subsection (2);
>
> "house in multiple occupation" and "flat in multiple occupation" have the same meaning as in Part XI;".

(2) At the end of that section there shall be inserted the following subsection—

> "(2) For the purposes of this Part, "dwelling-house" includes any yard, garden, outhouses and appurtenances belonging to it or usually enjoyed with it and section 183 shall have effect to determine whether a dwelling-house is a flat."

91 In section 624 (index of defined expressions: Part XVIII)—

(a) the entry beginning "house" shall be omitted; and

(b) at the appropriate places in alphabetical order there shall be inserted the following entries—

"dwelling-house	section 623"
"flat	section 623"
"flat in multiple occupation	section 623"
"house in multiple occupation	section 623"

SCHEDULE 10

Section 186.

SECURITY OF TENURE ON ENDING OF LONG RESIDENTIAL TENANCIES

Modifications etc. (not altering text)
C116 Sch. 10 excluded (1.11.1993) by 1993 c. 28, **s. 59(2)(b)(i)** (with ss. 94(2), 95); S.I. 1993/2134, **arts. 2**, 5(a)

Preliminary

1 (1) This Schedule applies to a long tenancy of a dwelling-house at a low rent as respects which for the time being the following condition (in this Schedule referred to as "the qualifying condition") is fulfilled, that is to say, that the circumstances (as respects

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the property let under the tenancy, the use of that property and all other relevant matters) are such that, if the tenancy were not at a low rent, it would at that time be an assured tenancy within the meaning of Part I of the [M242]Housing Act 1988.

(2) For the purpose only of determining whether the qualifying condition is fulfilled with respect to a tenancy, Schedule 1 to the Housing Act 1988 (tenancies which cannot be assured tenancies) shall have effect with the omission of paragraph 1 (which excludes tenancies entered into before, or pursuant to contracts made before, the coming into force of Part I of that Act).

[[F356](2A) For the purpose only of determining whether the qualifying condition is fulfilled with respect to a tenancy which is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house has a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), for paragraph 2(1)(b) and (2) of Schedule 1 to the Housing Act [M243]1988 there shall be substituted—

"(b) where (on the date the contract for the grant of the tenancy was made or, if there was no such contract, on the date the tenancy was entered into) R exceeded £25,000 under the formula—

$$R = \frac{P \times I}{1-(1+I)} - T$$

where—

P is the premium payable as a condition of the grant of the tenancy (and includes a payment of money's worth) or, where no premium is so payable, zero,

I is 0.06,

T is the term, expressed in years, granted by the tenancy (disregarding any right to terminate the tenancy before the end of the term or to extend the tenancy)."**]**.

(3) At any time within the period of twelve months ending on the day preceding the term date, application may be made to the court as respects any long tenancy of a dwelling-house at a low rent, not being at the time of the application a tenancy as respects which the qualifying condition is fulfilled, for an order declaring that the tenancy is not to be treated as a tenancy to which this Schedule applies.

(4) Where an application is made under sub-paragraph (3) above—

(a) the court, if satisfied that the tenancy is not likely immediately before the term date to be a tenancy to which this Schedule applies but not otherwise, shall make the order; and

(b) if the court makes the order, then, notwithstanding anything in sub-paragraph (1) above the tenancy shall not thereafter be treated as a tenancy to which this Schedule applies.

(5) A tenancy to which this Schedule applies is hereinafter referred to as a long residential tenancy.

(6) Anything authorised or required to be done under the following provisionsof this Schedule in relation to a long residential tenancy shall, if done before the term date in relation to a long tenancy of a dwelling-house at a low rent, not be treated as invalid

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by reason only that at the time at which it was done the qualifying condition was not fulfilled as respects the tenancy.

(7) In determining for the purposes of any provision of this Schedule whether the property let under a tenancy was let as a separate dwelling, the natureof the property at the time of the creation of the tenancy shall be deemed to have been the same as its nature at the time in relation to which the question arises, and the purpose for which it was let under the tenancy shall be deemed to have been the same as the purpose for which it is or was used at the last-mentioned time.

[F357(8) The Secretary of State may by order replace the number in the definition of "I" in sub-paragraph (2A) above and any amount referred to in that sub-paragraph and paragraph 2(4)(b) below by such number or amount as is specified in the order; and such an order shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.**]**

Textual Amendments

F356 Sch. 10 para. 1(2A) inserted by S.I. 1990/434, reg. 2, **Sch.**para. 31

F357 Sch. 10 para. 1(8) inserted by S.I. 1990/434, reg. 2, **Sch.**para. 32

Marginal Citations

M242 1988 c. 50.

M243 1988 c.50 (75:1).

2 (1) This paragraph has effect for the interpretation of certain expressions used in this Schedule.

(2) Except where the context otherwise requires, expressions to which a meaning is assigned for the purposes of the 1988 Act or Part I of that Act have the same meaning in this Schedule.

(3) "Long tenancy" means a tenancy granted for a term of years certain exceeding 21 years, whether or not subsequently extended by act of the parties or by any enactment, but excluding any tenancy which is, or may become, terminable before the end of the term by notice given to the tenant.

[F358(4) A tenancy is "at a low rent" if under the tenancy—

(a) no rent is payable,

(b) where the tenancy is entered into on or after 1st April 1990 (otherwise than, where the dwelling-house had a rateable value on 31st March 1990, in pursuance of a contract made before 1st April 1990), the maximum rent payable at any time is payable at a rate of—

(i) £1,000 or less a year if the dwelling-house is in Greater London and,

(ii) £250 or less a year if the dwelling-house is elsewhere, or,

(c) where the tenancy was entered into before 1st April 1990 or (where the dwelling-house had a rateable value on 31st March 1990) is entered into on or after 1st April 1990 in pursuance of a contract made before that date, and the maximum rent payable at any time under the tenancy is less than two-thirds of the rateable value of the dwelling-house on 31st March 1990.**]**

(5) **[**F359Paragraph 2(2)**]** of Schedule 1 to the 1988 Act applies to determine whether the rent under a tenancy falls within sub-paragraph (4) above and Part II of that Schedule

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applies to determine the rateable value of a dwelling-house for the purposes of that sub-paragraph.

(6) "Long residential tenancy" and "qualifying condition" have the meaning assigned by paragraph 1 above and the following expressions shall be construed as follows—

"the 1954 Act" means the [M244]Landlord and Tenant Act 1954;

"the 1988 Act" means the [M245]Housing Act 1988;

"assured periodic tenancy" shall be construed in accordance with paragraph 9(4) below;

"the date of termination" has the meaning assigned by paragraph 4(4) below;

"disputed terms" shall be construed in accordance with paragraph 11(1)(a) below;

"election by the tenant to retain possession" shall be construed in accordance with paragraph 4(7) below;

"former 1954 Act tenancy" means a tenancy to which, by virtue of section 186(3) of this Act, this Schedule applies on and after 15th January 1999;

"the implied terms" shall be construed in accordance with paragraph 4(5)(a) below;

"landlord" shall be construed in accordance with paragraph 19(1) below;

"landlord's notice" means a notice under sub-paragraph (1) of paragraph 4 below and such a notice is—

(a) a "landlord's notice proposing an assured tenancy" if it contains such proposals as are mentioned in sub-paragraph (5)(a) of that paragraph; and

(b) a "landlord's notice to resume possession" if it contains such proposals as are referred to in sub-paragraph (5)(b) of that paragraph;

"specified date of termination", in relation to a tenancy in respect of which a landlord's notice is served, means the date specified in the notice as mentioned in paragraph 4(1)(a) below;

"tenant's notice" shall be construed in accordance with paragraph 10(1)(a) below;

"term date", in relation to a tenancy granted for a term of years certain, means the date of expiry of that term;

"the terms of the tenancy specified in the landlord's notice"shall be construed in accordance with paragraph 4(6) below; and

"undisputed terms" shall be construed in accordance with paragraph 11(2) below.

Textual Amendments

F358 Sch. 10 para. 2(4) substituted by S.I. 1990/434, **reg. 2**,Sch. para. 33

F359 Words substituted by S.I. 1990/434, reg. 2, **Sch. para. 34**

Marginal Citations

M244 1954 c. 56.

M245 1988 c. 50.

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Continuation of long residential tenancies

3 (1) A tenancy which, immediately before the term date, is a long residential tenancy shall not come to an end on that date except by being terminated under the provisions of this Schedule, and, if not then so terminated, shall subject to those provisions continue until so terminated and, while continuing by virtue of this paragraph, shall be deemed to be a long residential tenancy (notwithstanding any change in circumstances).

(2) Sub-paragraph (1) above does not apply in the case of a former 1954 Act tenancy the term date of which falls before 15th January 1999 but if, in the case of such a tenancy,—

(a) the tenancy is continuing immediately before that date by virtue of section 3 of the 1954 Act, and

(b) on that date the qualifying condition (as defined in paragraph 1(1) above) is fulfilled,

then, subject to the provisions of this Schedule, the tenancy shall continue until terminated under those provisions and, while continuing by virtue of this paragraph, shall be deemed to be a long residential tenancy (notwithstanding any change in circumstances).

(3) Where by virtue of this paragraph a tenancy continues after the term date, the tenancy shall continue at the same rent and in other respects on the same terms as before the term date.

Termination of tenancy by the landlord

4 (1) Subject to sub-paragraph (2) below and the provisions of this Schedule as to the annulment of notices in certain cases, the landlord may terminate along residential tenancy by a notice in the prescribed form served on the tenant—

(a) specifying the date at which the tenancy is to come to an end, being either the term date or a later date; and

(b) so served not more than twelve nor less than six months before the date so specified.

(2) In any case where—

(a) a landlord's notice has been served, and

(b) an application has been made to the court or a rent assessment committee under the following provisions of this Schedule other than paragraph 6, and

(c) apart from this paragraph, the effect of the notice would be to terminate the tenancy before the expiry of the period of three months beginning with the date on which the application is finally disposed of,

the effect of the notice shall be to terminate the tenancy at the expiry of the said period of three months and not at any other time.

(3) The reference in sub-paragraph (2)(c) above to the date on which the application is finally disposed of shall be construed as a reference to the earliest date by which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the date of withdrawal or abandonment.

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(4) In this Schedule "the date of termination", in relation to a tenancy in respect of which a landlord's notice is served, means,—

(a) where the tenancy is continued as mentioned in sub-paragraph (2) above,the last day of the period of three months referred to in that sub-paragraph;and

(b) in any other case, the specified date of termination.

(5) A landlord's notice shall not have effect unless—

(a) it proposes an assured monthly periodic tenancy of the dwelling-house anda rent for that tenancy (such that it would not be a tenancy at a low rent)and, subject to sub-paragraph (6) below, states that the other terms of the tenancy shall be the same as those of the long residential tenancy immediately before it is terminated (in this Schedule referred to as "the implied terms"); or

(b) it gives notice that, if the tenant is not willing to give up possessionat the date of termination of the property let under the tenancy, the landlord proposes to apply to the court, on one or more of the grounds specified inparagraph 5(1) below, for the possession of the property let under the tenancy and states the ground or grounds on which he proposes to apply.

(6) In the landlord's notice proposing an assured tenancy the landlord may propose terms of the tenancy referred to in sub-paragraph (5)(a) above different from the implied terms; and any reference in the following provisions of this Schedule to the terms of the tenancy specified in the landlord's notice is a reference to the implied terms or, if the implied terms are varied by virtue of this sub-paragraph, to the implied terms as so varied.

(7) A landlord's notice shall invite the tenant, within the period of two months beginning on the date on which the notice was served, to notify the landlord in writing whether, —

(a) in the case of a landlord's notice proposing an assured tenancy, the tenant wishes to remain in possession; and

(b) in the case of a landlord's notice to resume possession, the tenant is willing to give up possession as mentioned in sub-paragraph (5)(b) above;

and references in this Schedule to an election by the tenant to retain possession are references to his notifying the landlord under this sub-paragraph that he wishes to remain in possession or, as the case may be, that he is not willing to give up possession.

5 (1) Subject to the following provisions of this paragraph, the grounds mentioned in paragraph 4(5)(b) above are—

(a) Ground 6 in, and those in Part II of, Schedule 2 to the 1988 Act, other than Ground 16;

(b) the ground that, for the purposes of redevelopment after the termination of the tenancy, the landlord proposes to demolish or reconstruct the whole or a substantial part of the premises; and

(c) the ground that the premises or part of them are reasonably required by the landlord for occupation as a residence for himself or any son or daughter of his over eighteen years of age or his or his spouse's father or mother and, if the landlord is not the immediate landlord, that he will be at the specified date of termination.

(2) Ground 6 in Schedule 2 to the 1988 Act may not be specified in a landlord's notice to resume possession if the tenancy is a former 1954 Act tenancy; and in the

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application of that Ground in accordance with sub-paragraph (1) above in any other case, paragraph (c) shall be omitted.

(3) In its application in accordance with sub-paragraph (1) above, Ground 10 in Schedule 2 to the 1988 Act shall have effect as if, in paragraph (b)—

(a) the words "except where subsection (1)(b) of section 8 of this Act applies" were omitted; and

(b) for the words "notice under that section relating to those proceedings" there were substituted " landlord's notice to resume possession (within the meaning of Schedule 10 to the Local Government and Housing Act 1989) ".

(4) The ground mentioned in sub-paragraph (1)(b) above may not be specified in a landlord's notice to resume possession unless the landlord is a body to which section 28 of the [M246]Leasehold Reform Act 1967 applies and the premises are required for relevant development within the meaning of that section; and on any application by such a body under paragraph 13 below for possession on that ground, a certificate given by a Minister of the Crown as provided by subsection (1) of that section shall be conclusive evidence that the premises are so required.

(5) The ground mentioned in sub-paragraph (1)(c) above may not be specified in a landlord's notice to resume possession if the interest of the landlord,or an interest which is merged in that interest and but for the merger wouldbe the interest of the landlord, was purchased or created after 18th February 1966.

Marginal Citations
M246 1967 c. 88.

Interim rent

6 (1) On the date of service of a landlord's notice proposing an assured tenancy, or at any time between that date and the date of termination, the landlord may serve a notice on the tenant in the prescribed form proposing an interim monthly rent to take effect from a date specified in the notice, being not earlier than the specified date of termination, and to continue while the tenancy is continued by virtue of the preceding provisions of this Schedule.

(2) Where a notice has been served under sub-paragraph (1) above,—

(a) within the period of two months beginning on the date of service, the tenant may refer the interim monthly rent proposed in the notice to a rent assessment committee; and

(b) if the notice is not so referred, then, with effect from the date specified in the notice or, if it is later, the expiry of the period mentioned in paragraph (a) above, the interim monthly rent proposed in the notice shall be the rent under the tenancy.

(3) Where, under sub-paragraph (2) above, the rent specified in a landlord's notice is referred to a rent assessment committee, the committee shall determine the monthly rent at which, subject to sub-paragraph (4) below, the committee consider that the premises let under the tenancy might reasonably be expected to be let on the open market by a willing landlord under a monthly periodic tenancy—

(a) which begins on the day following the specified date of termination;

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(b) under which the other terms are the same as those of the existing tenancy at the date on which was given the landlord's notice proposing an assured tenancy; and

(c) which affords the tenant security of tenure equivalent to that afforded by Chapter I of Part I of the 1988 Act in the case of an assured tenancy (other than an assured shorthold tenancy) in respect of which possession may not be recovered under any of Grounds 1 to 5 in Part I of Schedule 2 to that Act.

(4) Subsections (2), **[**F360(3A),**]**(4) and (5) of section 14 of the 1988 Act shall apply in relation to a determination of rent under sub-paragraph (3) above as they apply in relation to a determination under that section subject to the modifications in sub-paragraph (5) below; and in this paragraph "rent" shall be construed in accordance with subsection (4) of that section.

(5) The modifications of section 14 of the 1988 Act referred to in sub-paragraph (4) above are that in subsection (2), the reference in paragraph (b) to a relevant improvement being carried out shall be construed as a reference to an improvement being carried out during the long residential tenancy and the reference in paragraph (c) to a failure to comply with any term of the tenancy shall be construed as a reference to a failure to comply with any term of the long residential tenancy.

(6) Where a reference has been made to a rent assessment committee under sub-paragraph (2) above, then, the rent determined by the committee (subject, in a case where section 14(5) of the 1988 Act applies, to the addition of the appropriate amount in respect of rates) shall be the rent under the tenancy with effect from the date specified in the notice served under sub-paragraph(1) above or, if it is later, the expiry of the period mentioned in paragraph(a) of sub-paragraph (2) above.

Textual Amendments

F360 Word in Sch. 10 para. 6(4) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para.20**

7 (1) Nothing in paragraph 6 above affects the right of the landlord and the tenant to agree the interim monthly rent which is to have effect while the tenancy is continued by virtue of the preceding provisions of this Schedule and the date from which that rent is to take effect; and, in such a case,—

(a) notwithstanding the provisions of paragraph 6 above, that rent shall be the rent under the tenancy with effect from that date; and

(b) no steps or, as the case may be, no further steps may be taken by the landlord or the tenant under the provisions of that paragraph.

(2) Nothing in paragraph 6 above requires a rent assessment committee to continue with a determination under sub-paragraph (3) of that paragraph—

(a) if the tenant gives notice in writing that he no longer requires such a determination; or

(b) if the long residential tenancy has come to an end on or before the specified date of termination.

(3) Notwithstanding that a tenancy in respect of which an interim monthly rent has effect in accordance with paragraph 6 above or this paragraph is no longer at a low rent, it shall continue to be regarded as a tenancy at a low rent and, accordingly, shall continue to be a long residential tenancy.

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Termination of tenancy by the tenant

8 (1) A long residential tenancy may be brought to an end at the term date by not less than one month's notice in writing given by the tenant to his immediate landlord.

(2) A tenancy which is continuing after the term date by virtue of paragraph 3 above may be brought to an end at any time by not less than one month's notice in writing given by the tenant to his immediate landlord, whether the notice is given before or after the term date of the tenancy.

(3) The fact that the landlord has served a landlord's notice or that there has been an election by the tenant to retain possession shall not prevent the tenant from giving notice under this paragraph terminating the tenancy at a date earlier than the specified date of termination.

The assured periodic tenancy

9 (1) Where a long residential tenancy (in this paragraph referred to as "the former tenancy") is terminated by a landlord's notice proposing an assured tenancy, then, subject to sub-paragraph (3) below, the tenant shall be entitled to remain in possession of the dwelling-house and his right to possession shall depend upon an assured periodic tenancy arising by virtue of this paragraph.

(2) The assured periodic tenancy referred to in sub-paragraph (1) above is one—

(a) taking effect in possession on the day following the date of termination;

(b) deemed to have been granted by the person who was the landlord under the former tenancy on the date of termination to the person who was then the tenant under that tenancy;

(c) under which the premises let are the dwelling-house;

(e) under which the periods of the tenancy, and the intervals at which rent is to be paid, are monthly beginning on the day following the date of termination;

(e) under which the rent is determined in accordance with paragraphs 10 to 12 below; and

(e) under which the other terms are determined in accordance with paragraphs 10 to 12 below.

(3) If, at the end of the period of two months beginning on the date of service of the landlord's notice, the qualifying condition was not fulfilled as respects the tenancy, the tenant shall not be entitled to remain in possession as mentioned in sub-paragraph (1) above unless there has been an election by the tenant to retain possession; and if, at the specified date of termination, the qualifying condition is not fulfilled as respects the tenancy, then, notwithstanding that there has been such an election, the tenant shall not be entitled to remain in possession as mentioned in that sub-paragraph.

(4) Any reference in the following provisions of this Schedule to an assured periodic tenancy is a reference to an assured periodic tenancy arising by virtue of this paragraph.

Initial rent under and terms of assured periodic tenancy

10 (1) Where a landlord's notice proposing an assured tenancy has been served on the tenant,—

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(a) within the period of two months beginning on the date of service of the notice, the tenant may serve on the landlord a notice in the prescribed form proposing either or both of the following, that is to say,—

(i) a rent for the assured periodic tenancy different from that proposed in the landlord's notice; and

(ii) terms of the tenancy different from those specified in the landlord's notice,

and such a notice is in this Schedule referred to as a "tenant's notice"; and

(b) if a tenant's notice is not so served, then, with effect from the date on which the assured periodic tenancy takes effect in possession,—

(i) the rent proposed in the landlord's notice shall be the rent under the tenancy; and

(ii) the terms of the tenancy specified in the landlord's notice shall be terms of the tenancy.

(2) Where a tenant's notice has been served on the landlord under sub-paragraph (1) above—

(a) within the period of two months beginning on the date of service of the notice, the landlord may by an application in the prescribed form refer the notice to a rent assessment committee; and

(b) if the notice is not so referred, then, with effect from the date on which the assured periodic tenancy takes effect in possession,—

(i) the rent (if any) proposed in the tenant's notice, or, if no rent is so proposed, the rent proposed in the landlord's notice, shall be the rent under the tenancy; and

(ii) the other terms of the tenancy (if any) proposed in the tenant's notice and, in so far as they do not conflict with the terms so proposed, the terms specified in the landlord's notice shall be terms of the tenancy.

11 (1) Where, under sub-paragraph (2) of paragraph 10 above, a tenant's notice is referred to a rent assessment committee, the committee, having regard only to the contents of the landlord's notice and the tenant's notice, shall decide—

(a) whether there is any dispute as to the terms (other than those relating to the amount of the rent) of the assured periodic tenancy (in this Schedule referred to as "disputed terms") and, if so, what the disputed terms are; and

(b) whether there is any dispute as to rent under the tenancy;

and where the committee decide that there are disputed terms and that there is a dispute as to the rent under the tenancy, they shall make a determination under sub-paragraph (3) below before they make a determination under sub-paragraph (5) below.

(2) Where, under paragraph 10(2) above, a tenant's notice is referred to arent assessment committee, any reference in this Schedule to the undisputed terms is a reference to those terms (if any) which—

(a) are proposed in the landlord's notice or the tenant's notice; and

(b) do not relate to the amount of the rent; and

(c) are not disputed terms.

(3) If the rent assessment committee decide that there are disputed terms, they shall determine whether the terms in the landlord's notice, the terms inthe tenant's notice, or some other terms, dealing with the same subject matteras the disputed terms are

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such as, in the committee's opinion, might reasonably be expected to be found in an assured monthly periodic tenancy of the dwelling-house (not being an assured shorthold tenancy)—

(a) which begins on the day following the date of termination;

(b) which is granted by a willing landlord on terms which, except so far as they relate to the subject matter of the disputed terms, are the undisputed terms; and

(c) in respect of which possession may not be recovered under any of Grounds 1 to 5 in Part I of Schedule 2 to the 1988 Act;

and the committee shall, if they consider it appropriate, specify an adjustment of the undisputed terms to take account of the terms so determined and shall, if they consider it appropriate, specify an adjustment of the rent to take account of the terms so determined and, if applicable, so adjusted.

(4) In making a determination under sub-paragraph (3) above, or specifying an adjustment of the rent or undisputed terms under that sub-paragraph, there shall be disregarded any effect on the terms or the amount of rent attributable to the granting of a tenancy to a sitting tenant.

(5) If the rent assessment committee decide that there is a dispute as to the rent under the assured periodic tenancy, the committee shall determine the monthly rent at which, subject to sub-paragraph (6) below, the committee consider that the dwelling-house might reasonably be expected to be let in the open market by a willing landlord under an assured tenancy (not being anassured shorthold tenancy)—

(a) which is a monthly periodic tenancy;

(b) which begins on the day following the date of termination;

(c) in respect of which possession may not be recovered under any of Grounds 1 to 5 in Part I of Schedule 2 to the 1988 Act; and

(d) the terms of which (other than those relating to the amount of the rent)are the same as—

(i) the undisputed terms; or

(ii) if there has been a determination under sub-paragraph (3) above, the terms determined by the committee under that sub-paragraph and the undisputed terms (as adjusted, if at all, under that sub-paragraph).

(6) Subsections (2), **[**F361(3A),**]**(4) and (5) of section 14 of the 1988 Act shall apply in relation to a determination of rent under sub-paragraph (5) above as they apply in relation to a determination under that section subject to the modifications in sub-paragraph (7) below; and in this paragraph "rent" shall be construed in accordance with subsection (4)of that section.

(7) The modifications of section 14 of the 1988 Act referred to in sub-paragraph (6) above are that in subsection (2), the reference in paragraph (b) to a relevant improvement being carried out shall be construed as a reference to an improvement being carried out during the long residential tenancy and the reference in paragraph (c) to a failure to comply with any term of the tenancy shall be construed as a reference to a failure to comply with any term of the long residential tenancy.

(8) Where a reference has been made to a rent assessment committee under sub-paragraph (2) of paragraph 10 above, then,—

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(a) if the committee decide that there are no disputed terms and that there is no dispute as to the rent, paragraph 10(2)(b) above shall apply as if the notice had not been so referred,

(b) where paragraph (a) above does not apply then, so far as concerns theamount of the rent under the tenancy, if there is a dispute as to the rent, the rent determined by the committee (subject, in a case where section 14(5) of the 1988 Act applies, to the addition of the appropriate amount in respect of rates) and, if there is no dispute as to the rent, the rent specified in the landlord's notice or, as the case may be, the tenant's notice (subject to any adjustment under sub-paragraph (3) above) shall be the rent under the tenancy, and

(c) where paragraph (a) above does not apply and there are disputed terms, then, so far as concerns the subject matter of those terms, the terms determined by the committee under sub-paragraph (3) above shall be terms of the tenancy and, so far as concerns any undisputed terms, those terms (subject to any adjustment under sub-paragraph (3) above) shall also be terms of the tenancy,

with effect from the date on which the assured periodic tenancy takes effect in possession.

(9) Nothing in this Schedule affects the right of the landlord and the tenant under the assured periodic tenancy to vary by agreement any term of the tenancy (including a term relating to rent).

Textual Amendments

F361 Word in Sch. 10 para. 11(6) inserted (1.4.1993) by S.I. 1993/651, art. 2(1), **Sch. 1 para.20**

12 (1) Subsections (2) to (4) of section 41 of the 1988 Act (rent assessment committees: information powers) shall apply where there is a reference to a rent assessment committee under the preceding provisions of this Schedule as they apply where a matter is referred to such a committee under Chapter I or Chapter II of Part I of the 1988 Act.

(2) Nothing in paragraph 10 or paragraph 11 above affects the right of the landlord and the tenant to agree any terms of the assured periodic tenancy (including a term relating to the rent) before the tenancy takes effect in possession (in this sub-paragraph referred to as "the expressly agreed terms"); and, in such case,—

(a) the expressly agreed terms shall be terms of the tenancy in substitution for any terms dealing with the same subject matter which would otherwise, by virtue of paragraph 10 or paragraph 11 above, be terms of the tenancy; and

(b) where a reference has already been made to a rent assessment committee under sub-paragraph (2) of paragraph 10 above but there has been no determination by the committee under paragraph 11 above,—

(i) the committee shall have regard to the expressly agreed terms, as notified to them by the landlord and the tenant, in deciding, for the purposes of paragraph 11 above, what the disputed terms are and whether there is any dispute as to the rent; and

(ii) in making any determination under paragraph 11 above the committee shall not make any adjustment of the expressly agreed terms, as so notified.

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(3) Nothing in paragraph 11 above requires a rent assessment committee to continue with a determination under that paragraph—

(a) if the long residential tenancy has come to an end; or

(b) if the landlord serves notice in writing on the committee that he no longer requires such a determination;

and, where the landlord serves notice as mentioned in paragraph (b) above, then, for the purposes of sub-paragraph (2) of paragraph 10 above, the landlord shall be treated as not having made a reference under paragraph (a)of that sub-paragraph and, accordingly, paragraph (b) of that sub-paragraph shall, subject to sub-paragraph (2) above, have effect for determining rent and other terms of the assured periodic tenancy.

Landlord's application for possession

13 (1) Where a landlord's notice to resume possession has been served on the tenant and either—

(a) there is an election by the tenant to retain possession, or

(b) at the end of the period of two months beginning on the date of service of the notice, the qualifying condition is fulfilled as respects the tenancy,

the landlord may apply to the court for an order under this paragraph on such of the grounds mentioned in paragraph 5(1) above as may be specified in the notice.

(2) The court shall not entertain an application under sub-paragraph (1) above unless the application is made—

(a) within the period of two months beginning on the date of the election by the tenant to retain possession; or

(b) if there is no election by the tenant to retain possession, within the period of four months beginning on the date of service of the landlord's notice.

(3) Where the ground or one of the grounds for claiming possession specified in the landlord's notice is Ground 6 in Part I of Schedule 2 to the 1988 Act, then, if on an application made under sub-paragraph (1) above the court is satisfied that the landlord has established that ground, the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.

(4) Subject to sub-paragraph (6) below, where the ground or one of the grounds for claiming possession specified in the landlord's notice is any of Grounds 9 to 15 in Part II of Schedule 2 to the 1988 Act or the ground mentioned in paragraph 5(1)(c) above, then, if on an application made under sub-paragraph (1) above the court is satisfied that the landlord has established that ground and that it is reasonable that the landlord should be granted possession, the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.

(5) Part III of Schedule 2 to the 1988 Act shall have effect for supplementing Ground 9 in that Schedule (as that ground applies in relation to this Schedule) as it has effect for supplementing that ground for the purposes of that Act, subject to the modification that in paragraph 3(1), in the words following paragraph (b) the reference to the assured tenancy in question shall be construed as a reference to the long residential tenancy in question.

(6) Where the ground or one of the grounds for claiming possession specified in the landlord's notice is that mentioned in paragraph 5(1)(c) above, the court shall not

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make the order mentioned in sub-paragraph (4) above on that ground if it is satisfied that, having regard to all the circumstances of the case, including the question whether other accommodation is available for the landlord or the tenant, greater hardship would be caused by making the order than by refusing to make it.

(7) Where the ground or one of the grounds for claiming possession specified in the landlord's notice is that mentioned in paragraph 5(1)(b) above, then, if on an application made under sub-paragraph (1) above the court is satisfied that the landlord has established that ground and is further satisfied—

(a) that on that ground possession of those premises will be required by the landlord on the date of termination, and

(b) that the landlord has made such preparations (including the obtaining or, if that is not reasonably practicable in the circumstances, preparations relating to the obtaining of any requisite permission or consent, whether from any authority whose permission or consent is required under any enactment or from the owner of any interest in any property) for proceeding with there development as are reasonable in the circumstances,

the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.

14 (1) Where, in a case falling within sub-paragraph (7) of paragraph 13 above, the court is not satisfied as mentioned in that sub-paragraph but would be satisfied if the date of termination of the tenancy had been such date (in this paragraph referred to as "the postponed date") as the court may determine, being a date later, but not more than one year later, than the specified date of termination, the court shall, if the landlord so requires, make an order as mentioned in sub-paragraph (2) below.

(2) The order referred to in sub-paragraph (1) above is one by which the court specifies the postponed date and orders—

(a) that the tenancy shall not come to an end on the date of termination but shall continue thereafter, as respects the whole of the property let under the tenancy, at the same rent and in other respects on the same terms as before that date; and

(b) that, unless the tenancy comes to an end before the postponed date, the tenant shall on that date give up possession of the property then let under the tenancy.

(3) Notwithstanding the provisions of paragraph 13 above and the preceding provisions of this paragraph and notwithstanding that there has been an election by the tenant to retain possession, if the court is satisfied, at the date of the hearing, that the qualifying condition is not fulfilled as respects the tenancy, the court shall order that the tenant shall, on the date of termination, give up possession of the property then let under the tenancy.

(4) Nothing in paragraph 13 above or the preceding provisions of this paragraph shall prejudice any power of the tenant under paragraph 8 above to terminate the tenancy; and sub-paragraph (2) of that paragraph shall apply where the tenancy is continued by an order under sub-paragraph (2) above as it applies where the tenancy is continued by virtue of paragraph 3 above.

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Provisions where tenant not ordered to give up possession

15 (1) The provisions of this paragraph shall have effect where the landlord is entitled to make an application under sub-paragraph (1) of paragraph 13 above but does not obtain an order under that paragraph or paragraph 14 above.

(2) If at the expiration of the period within which an application under paragraph 13(1) above may be made the landlord has not made such an application, the landlord's notice to resume possession, and anything done in pursuance thereof, shall cease to have effect.

(3) If before the expiration of the period mentioned in sub-paragraph (2)above the landlord has made an application under paragraph 13(1) above but the result of the application, at the time when it is finally disposed of, is that no order is made, the landlord's notice to resume possession shall cease tohave effect.

(4) In any case where sub-paragraph (3) above applies, then, if within the period of one month beginning on the date that the application to the courtis finally disposed of the landlord serves on the tenant a landlord's notice proposing an assured tenancy, the earliest date which may be specified in the notice as the date of termination shall, notwithstanding anything in paragraph 4(1)(b) above, be the day following the last day of the period of four months beginning on the date of service of the subsequent notice.

(5) The reference in sub-paragraphs (3) and (4) above to the time at which an application is finally disposed of shall be construed as a reference to the earliest time at which the proceedings on the application (including any proceedings on or in consequence of an appeal) have been determined and anytime for appealing or further appealing has expired, except that if the application is withdrawn or any appeal is abandoned the reference shall be construed as a reference to the time of withdrawal or abandonment.

(6) A landlord's notice to resume possession may be withdrawn at any time by notice in writing served on the tenant (without prejudice, however, to the power of the court to make an order as to costs if the notice is withdrawn after the landlord has made an application under paragraph 13(1) above).

(7) In any case where sub-paragraph (6) above applies, then, if within the period of one month beginning on the date of withdrawal of the landlord's notice to resume possession the landlord serves on the tenant a landlord's notice proposing an assured tenancy, the earliest date which may be specified in the notice as the date of termination shall, notwithstanding anything in paragraph 4(1)(b) above, be the day following the last day of the period of four months beginning on the date of service of the subsequent notice or the day following the last day of the period of six months beginning on the dateof service of the withdrawn notice, whichever is the later.

Tenancies granted in continuation of long tenancies

16 (1) Where on the coming to the end of a tenancy at a low rent the person who was the tenant immediately before the coming to an end thereof becomes (whether by grant or by implication of the law) the tenant under another tenancy at a low rent of a dwelling-house which consists of the whole or any part of the property let under the previous tenancy, then, if the previous tenancy was a long tenancy or is deemed by virtue of this paragraph to have been a long tenancy, the new tenancy shall be deemed for the purposes of this Schedule to be a long tenancy, irrespective of its terms.

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(2) In relation to a tenancy from year to year or other tenancy not granted for a term of years certain, being a tenancy which by virtue of sub-paragraph (1) above is deemed for the purposes of this Schedule to be a long tenancy, the preceding provisions of this Schedule shall have effect subject to the modifications set out below.

(3) In sub-paragraph (6) of paragraph 2 above for the expression beginning "term date" there shall be substituted—

> ""term date", in relation to any such tenancy as is mentioned in paragraph 16(2) below, means the first date after the coming into force of this Schedule on which, apart from this Schedule, the tenancy could have been brought to an end by notice to quit given by the landlord".

(4) Notwithstanding anything in sub-paragraph (3) of paragraph 3 above, whereby virtue of that paragraph the tenancy is continued after the term date, the provisions of this Schedule as to the termination of a tenancy by notice shall have effect, subject to sub-paragraph (5) below, in substitution for and not in addition to any such provisions included in the terms on which the tenancy had effect before the term date.

(5) The minimum period of notice referred to in paragraph 8(1) above shall be one month or such longer period as the tenant would have been required to give to bring the tenancy to an end at the term date.

(6) Where the tenancy is not terminated under paragraph 4 or paragraph 8 above at the term date, then, whether or not it would have continued after that date apart from the provisions of this Schedule, it shall be treated for the purposes of those provisions as being continued by virtue of paragraph 3 above.

Agreements as to the grant of new tenancies

17 In any case where, prior to the date of termination of a long residential tenancy, the landlord and the tenant agree for the grant to the tenant of a future tenancy of the whole or part of the property let under the tenancy at a rent other than a low rent and on terms and from a date specified in the agreement, the tenancy shall continue until that date but no longer; and, in such a case, the provisions of this Schedule shall cease to apply in relation to the tenancy with effect from the date of the agreement.

Assumptions on which to determine future questions

18 Where under this Schedule any question falls to be determined by the court or a rent assessment committee by reference to circumstances at a future date, the court or committee shall have regard to all rights, interests and obligations under or relating to the tenancy as they subsist at the time of the determination and to all relevant circumstances as those then subsist and shall assume, except in so far as the contrary is shown, that those rights, interests, obligations and circumstances will continue to subsist unchanged until that future date.

Landlords and mortgagees in possession

19 (1) Section 21 of the 1954 Act (meaning of "the landlord" and provisions as to mesne landlords) shall apply in relation to this Schedule as it applies in relation to Part I of that Act but subject to the following modifications—

(a) any reference to Part I of that Act shall be construed as a reference to this Schedule; and

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(b) subsection (4) (which relates to statutory tenancies arising under that Part) shall be omitted.

(2) Section 67 of the 1954 Act (mortgagees in possession) applies for the purposes of this Schedule except that for the reference to that Act there shall be substituted a reference to this Schedule.

(3) In accordance with sub-paragraph (1) above, Schedule 5 to the 1954 Act shall also apply for the purpose of this Schedule but subject to the following modifications—

(a) any reference to Part I of the 1954 Act shall be construed as a reference to the provisions of this Schedule (other than this sub-paragraph);

(b) any reference to section 21 of the 1954 Act shall be construed as a reference to that section as it applies in relation to this Schedule;

(c) any reference to subsection (1) of section 4 of that Act shall be construed as a reference to sub-paragraph (1) of paragraph 4 above;

(d) any reference to the court includes a reference to a rent assessment committee;

(e) paragraphs 6 to 8 and 11 shall be omitted;

(f) any reference to a particular subsection of section 16 of the 1954 Act shall be construed as a reference to that subsection as it applies in relation to this Schedule;

(g) any reference to a tenancy to which section 1 of the 1954 Act applies shall be construed as a reference to a long residential tenancy; and

(h) expressions to which a meaning is assigned by any provision of this Schedule (other than this sub-paragraph) shall be given that meaning.

Application of other provisions of the 1954 Act

20 (1) Section 16 of the 1954 Act (relief for tenant where landlord proceeding to enforce covenants) shall apply in relation to this Schedule as it applies in relation to Part I of that Act but subject to the following modifications—

(a) in subsection (1) the reference to a tenancy to which section 1 of the 1954 Act applies shall be construed as a reference to a long residential tenancy;

(b) in subsection (2) the reference to Part I of that Act shall be construed as a reference to this Schedule;

(c) subsection (3) shall have effect as if the words "(without prejudice to section ten of this Act)" were omitted; and

(d) in subsection (7) the reference to subsection (3) of section 2 of the 1954 Act shall be construed as a reference to paragraph 1(6) above.

(2) Section 55 of the 1954 Act (compensation for possession obtained by misrepresentation) shall apply in relation to this Schedule as it applies in relation to Part I of that Act.

(3) Section 63 of the [M247]1954 Act (jurisdiction of court for purposes of Parts I and II of the 1954 Act and of Part I of the Landlord andTenant Act 1927) shall apply in relation to this Schedule and section 186 of this Act as it applies in relation to Part I of that Act.

(4) Section 65 of the 1954 Act (provisions as to reversions) applies for the purposes of this Schedule except that for any reference to that Act there shall be substituted a reference to this Schedule.

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(5) Subsection (4) of section 66 of the 1954 Act (service of notices) shall apply in relation to this Schedule as it applies in relation to that Act.

Marginal Citations
M247 1980 c. 45.

21 (1) Where this Schedule has effect in relation to a former 1954 Act tenancy the term date of which falls before 15th January 1999, any reference (however expressed) in the preceding provisions of this Schedule to the dwelling-house (or the property) let under the tenancy shall have effect as a reference to the premises qualifying for protection, within the meaning of the 1954 Act.

(2) Notwithstanding that at any time section 1 of the 1954 Act does not, and this Schedule does, apply to a former 1954 Act tenancy, any question of what are the premises qualifying for protection or (in that context) what is the tenancy shall be determined for the purposes of this Schedule in accordance with Part I of that Act.

Crown application

22 (1) This Schedule shall apply where—

(a) there is an interest belonging to Her Majesty in right of the Crown and that interest is under the management of the Crown Estate Commissioners, or

(b) there is an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall,

as if it were an interest not so belonging.

(2) Where an interest belongs to Her Majesty in right of the Duchy of Lancaster, then, for the purposes of this Schedule, the Chancellor of the Duchy of Lancaster shall be deemed to be the owner of the interest.

(3) Where an interest belongs to the Duchy of Cornwall, then, for the purposes of this Schedule, such person as the Duke of Cornwall, or other possessor for the time being of the Duchy of Cornwall, appoints shall be deemed to be the owner of the interest.

SCHEDULE 11

Section 194.

MINOR AND CONSEQUENTIAL AMENDMENTS

The Military Lands Act 1892

1 In section 8 of the [M248]Military Lands Act 1892 (provisions as to disbandment of volunteer corps etc.) subsection (3) shall be omitted.

Marginal Citations
M248 1892 c. 43.

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The Small Holdings and Allotments Act 1908

2 In section 52 of the [M249]Small Holdings and Allotments Act 1908 (borrowing powers and expenses) subsection (3) shall be omitted.

Marginal Citations
M249 1908 c. 36.

PROSPECTIVE

The Prevention of Corruption Act 1916

3 In section 4 of the [M250]Prevention of Corruption Act 1916 (short title and interpretation), at the end of subsection (2) (meaning of "public body") there shall be added " and companies which, in accordance with Part V of the Local Government and Housing Act 1989, are under the control of one or more local authorities ".

Marginal Citations
M250 1916 c. 64.

The Education Act 1944

[F362]4 . . . . . .

Textual Amendments
F362 Sch. 11 para. 4 repealed (1.4.1994) by 1993 c. 35, s. 307(3), **Sch. 21 Pt.II**; S.I. 1994/507, art. 4, **Sch. 2** Appendix

The Sexual Offences Act 1956

5 In Schedule 1 to the [M251]Sexual Offences Act 1956 (rightsof landlord where tenant convicted of permitting use of premises as a brothel) at the end of paragraph 5 there shall be added " Part I of the Housing Act 1988 and Schedule 10 to the Local Government and Housing Act 1989 ".

Marginal Citations
M251 1956 c. 69.

The Public Works Loans Act 1965

6 In section 2 of the [M252]Public Works Loans Act 1965 (newform of local loan and automatic charge for securing it),—

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(a) in subsection (3) for the words "Part IX of the said Act of 1933" there shall be substituted " section 43 of the Local Government and Housing Act 1989 (borrowing powers) "; and

(b) in subsection (5) for the words "section 197 of the Local Government Act 1933" there shall be substituted " section 47 of the Local Government and Housing Act 1989 (security for money borrowed) ".

Marginal Citations
M252 1965 c. 63.

The Public Works Loans Act 1967

7 In section 2 of the [M253]Public Works Loans Act 1967 (amendments as to local loans and automatic charges under s.2 of Act of 1965), in subsection (2) for the words "Part IX of the Local Government Act 1933" there shall be substituted " section 43 of the Local Government and Housing Act 1989 (borrowing powers) ".

Marginal Citations
M253 1967 c. 61.

The Leasehold Reform Act 1967

8 In section 3 of the [M254]Leasehold Reform Act 1967 (meaning of "long tenancy"), in subsection (5) after "1954" there shall be inserted " under Schedule 10 to the Local Government and Housing Act 1989 ".

Marginal Citations
M254 1967 c. 88.

9 In section 9 of that Act (purchase price and costs of enfranchisement, and tenant's right to withdraw), in subsection (1A), in paragraph (b) after the word "premises" there shall be inserted—

"(i) if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act 1989,or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act 1954 in respect of which the landlord is notable to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and

(ii) in any other case".

[F363]10 In section 16 of that Act (exclusion of further rights after extension of lease) after subsection (1A) there shall be inserted the following subsection—

"(1B) A tenancy extended under section 14 above shall not be an assured tenancy or an assured agricultural occupancy, within the meaning of Part I of the

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Housing Act 1988, and Schedule 10 to the Local Government and Housing Act 1989 shall not apply to a tenancy so extended."**]**

Textual Amendments

F363 Sch. 11 para. 10 repealed (26.7.2002 for E. and 1.1.2003 for W. subject to transitional provisions and savings in Sch. 2 of each commencing S.I.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 180, **Sch. 14**; S.I. 2002/1912, **art. 2**, Sch. 1 Pt. 3; S.I. 2002/3012, **art. 2**, Sch. 1 Pt. 3

11 In section 22 of that Act (validity of tenants' notices, effect on the 1954 Act and on notices to quit etc. and procedure generally), in subsection (1) after paragraph (c) there shall be inserted the following paragraph—

"(cc) for adapting the procedure under Schedule 10 to the Local Government and Housing Act 1989, and for relating to one another proceedings under that Schedule and proceedings under this Part of this Act; and".

12 In section 37 of that Act (interpretation of Part I), in subsection (2)—

(a) after "1954" there shall be inserted " or paragraph 16(2) of Schedule 10 to the Local Government and Housing Act 1989 ";

(b) for the words "that Act", in the first place where they occur, there shall be substituted " the said Act of 1954 or, as the case may be, the said Schedule 10 ";

(c) for the words "that Act", in the second place where they occur, there shall be substituted " the said Act of 1954 or, as the case may be, the coming into force of the said Schedule 10 "; and

(e) for the words "that Act", in the third place where they occur, there shall be substituted " the said Act of 1954 or, as the case may be, the said Schedule 10 ".

13 (1) In Schedule 3 to that Act (validity of tenants' notices, effect on the1954 Act etc. and procedure generally), in paragraph 1, in sub-paragraph (1)after "1954" there shall be inserted " or paragraph 17 of Schedule 10 to the Local Government and Housing Act 1989 ".

(2) In paragraph 2 of that Schedule—

(a) in sub-paragraph (1) after "1954"there shall be inserted " or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ";

(b) in sub-paragraph (2) after "1954" there shall be inserted " or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 "and after the word "given" there shall be inserted " or served "; and

(c) in sub-paragraph (3)—

(i) after "1954" there shall be inserted " or served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ";

(ii) after the words "shall be" there shall be inserted—

"(l) in the case of a notice given under the said Act of 1954"; and

(iii) at the end there shall be added—

"(ii) in the case of a notice served under the said Schedule 10, the date of termination specified in the previous notice or the expiration of the period of four months

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beginning on the date of service of the new notice, whichever is the later".

(3) In paragraph 3 of that Schedule, after sub-paragraph (2) there shall be inserted—

"(3) The reference in sub-paragraph (2) above to section 16(2) of, and paragraph 9 of Schedule 5 to, the Landlord and Tenant Act 1954 includes a reference to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act 1989."

(4) In paragraph 4 of that Schedule, after sub-paragraph (5) there shall be inserted—

"(6) The references in this paragraph—

(a) to section 16 of the Landlord and Tenant Act 1954 and subsection (2) of that section, and

(b) paragraph 9 of Schedule 5 to that Act and sub-paragraph (2) of that paragraph,

include references to those provisions as they apply in relation to Schedule 10 to the Local Government and Housing Act 1989."

(5) In paragraph 10 of that Schedule—

(a) in sub-paragraph (1)—

(i) after "1954" there shall be inserted " or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 "; and

(ii) in paragraph (a) for the words "either of those sections" there shall be substituted " any of those provisions "; and

(b) in sub-paragraph (4) after "1954" there shall be inserted " or under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ".

The International Organisations Act 1968

14 In Schedule 1 to the [M255]International Organisations Act 1968 (privileges and immunities) after paragraph 9A there shall be inserted the following paragraph—

"9B The like exemption or relief from being subject to a community charge, or being liable to pay anything in respect of a community charge or anything by way of contribution in respect of a collective community charge, as is accorded to or in respect of the head of a diplomatic mission."

Commencement Information

I12 Sch. 11 para. 14 wholly in force; Sch. 11 para. 14 not in force at Royal Assent see s. 195(2); Sch. 11 para. 14 wholly in force at 25.1.1993 by S.I. 1993/105, **art. 2**

Marginal Citations

M255 1968 c. 48.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

PROSPECTIVE

The Social Work (Scotland) Act 1968

F364 15 . . . . . .

Textual Amendments

F364 Sch. 11 para. 15 repealed (S.) (1.4.1997) by 1995 c. 36, s. 105(5), **Sch. 5**; S.I. 1996/3201, **art. 3(7)**

The Transport Act 1968

16 In section 12 of the M256Transport Act 1968 (borrowing powers of Executive), in subsection (4) for the words from "and to borrow money for that purpose" onwards there shall be substituted " but only if the rate of interest payable by the Executive to the Authority in respect of the loan is not less than that which would be payable by the Authority if they were to borrow the same sum on equivalent terms (disregarding any terms as to interest) from another person ".

Marginal Citations

M256 1968 c. 73.

PROSPECTIVE

The Local Authority Social Services Act 1970

17 In section 4 of the M257Local Authority Social Services Act 1970, after subsection (1) there shall be inserted the following subsection—

"(1A) A local authority may establish sub-committees of their social services committee and may delegate to any such sub-committee any of the functions of the committee."

Marginal Citations

M257 1970 c. 42.

18 In section 5(4) of that Act for the words "section 4(2)" there shall be substituted " subsection (1A) or subsection (2) of section 4 ".

The Town and Country Planning Act 1971

19 F365,
20.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F365 Sch. 11 paras. 19, 20 repealed by Planning (ConsequentialProvisions) Act 1990 (c. 11, SIF 123:1, 2), s. 3, Sch. 1 Pt. I, Sch. 3 paras.1, 2, 4, **6**

The Local Government Act 1972

PROSPECTIVE

21 In section 80 of the [M258]Local Government Act 1972 (disqualifications for election and holding office as members of local authority), in subsection (1) after paragraph (a) there shall be inserted the following paragraph—

"(aa) holds any employment in a company which, in accordance with Part V of the Local Government and Housing Act 1989 other than section 73, is under the control of the local authority; or".

Marginal Citations

M258 1972 c. 70.

22 In section 94(5)(b) of that Act (allowances not to be treated as pecuniaryinterests), after the word "below" there shall be inserted the words "or under any scheme made by virtue of section 18 of the Local Governmentand Housing Act 1989".

23 In subsection (6) of section 97 of that Act (exclusion of disability from speaking and voting by reason of small shareholdings), for "£1,000" there shall be substituted " £5,000 ".

PROSPECTIVE

24 In section 100G of that Act (duty of principal councils to publish information), for paragraph (b) of subsection (1) there shall be substituted the following paragraph—

"(b) in respect of every committee or sub-committee of the council—

(i) the members of the council who are members of the committee or sub-committee or who are entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them;

(ii) the name and address of every other person who is a member of the committee or sub-committee or who is entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them otherwise than in the capacity of an officer of the council; and

(iii) the functions in relation to the committee or sub-committee of every person falling within sub-paragraph (i) above who is not a member of the committee or sub-

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committee and of every person falling within sub-paragraph(ii) above."

PROSPECTIVE

25 In section 102 of that Act (appointment of committees)—

(a) in paragraph (a) of subsection (1), after "may appoint a committee" there shall be inserted " or a sub-committee ";

(b) in subsection (2), for "the appointing committee" there shall be substituted " the appointing authority or committee (as the case may be) ";and

(c) after subsection (4) there shall be inserted the following subsection—

"(4A) A local authority may appoint one or more sub-committees of a committee appointed by them under subsection (4) above to advise the committee with respect to any matter relating to the discharge of functions with respect to which the committee is appointed to advise."

26 Sections 173 and 173A of that Act (attendance allowance and financial loss allowance) shall be amended as follows—

(a) for the words "local authority", wherever they occur, there shall be substituted " parish or community council ";

(b) in subsection (3) of each of those sections, for the word "authority"there shall be substituted " council "; and

(c) for the words "body to which this section applies" in subsection (4) of section 173 there shall be substituted " parish or community council ".

Commencement Information

I13 Sch. 11 para. 26 wholly in force at 1.4.1991; Sch. 11 para. 26 in force for certain purposes at 27.2.1991 and wholly in force at 1.4.1991, see s. 195(2)(3) and S.I. 1991/344, art. 3, **Sch.**

27 In section 175 of that Act (allowances for conferences and meetings)—

(a) in subsection (1) (allowances payable), for the words from "allowancesin the nature of" onwards there shall be substituted "allowances in the nature of an attendance allowance and an allowance for travelling and subsistence, as they think fit.

(1A) Payments made under subsection (1) above shall be of such reasonable amounts as the body in question may determine in a particular case or class of case but shall not exceed—

(a) in the case of payments of an allowance in the nature of an attendance allowance, such amounts as may be specified in or determined under regulations made by the Secretary of State; and

(b) in the case of payments of an allowance in the nature of an allowance for travel and subsistence in respect of a conference or meeting held in the United Kingdom, such amounts as may be specified under section 174 above for the corresponding allowance under that section;

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and regulations made by the Secretary of State may make it a condition of any payment mentioned in paragraph (a) above that, in the financial year to which the payment would relate, the aggregate amount which the body in question has paid or is already liable to pay in respect of any prescribed allowance or allowances does not exceed such maximum amount as may be specified in or determined under the regulations.";

(b) in subsection (3B) (conferences to which section applies in relation to joint boards and committees), for the words "such body as is mentioned in section 177(1)(d) or (e) below" there shall be substituted the words " body which is a joint board, joint authority or other combined body all the members of which are representatives of local authorities ".

Commencement Information

I14 Sch. 11 para. 27 wholly in force at 1. 4. 1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**

28 (1) Section 177 of that Act shall be amended as follows.

(2) For subsection (1) (bodies to which sections 173 to 175 apply) there shall be substituted the following subsection—

"(1) Subject to paragraph 4 of Schedule 2 to the Education Act 1980 (application of certain allowances to appeal committees), sections 174 and 175 above apply—

(a) to the bodies specified in section 21(1) of the Local Government and Housing Act 1989, except—

(i) the Common Council;

(ii) a body established pursuant to an order under section 67 of the Local Government Act 1985 (successors to residuary bodies); and

(iii) without prejudice to section 265 below, the Council of the Isles of Scilly;

(b) to any prescribed body on which a body to which those sections apply by virtue of paragraph (a) above is represented; and

(c) to any parish or community council."

(3) For subsection (2) (meaning of "approved duties") there shall be substituted the following subsection—

"(2) In sections 173 to 176 above "approved duty", in relation to a member of a body, meanssuch duties as may be specified in or determined under regulations made by the Secretary of State."

(4) In subsection (4) (members not excluded from discussion of allowances),at the end there shall be inserted the words " or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989 ".

Commencement Information

I15 Sch. 11 para. 28 wholly in force at 1. 4. 1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**

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29 In section 178(2) of that Act (regulations with respect to allowances), for the words "177 or 177A" there shall be substituted " or 177 ".

Commencement Information
I16 Sch. 11 para. 29 wholly in force at 1.4.1991, see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**

30 In sub-paragraphs (1) and (2) of paragraph 41 of Schedule 12 to that Act (recording the minutes of meetings of local authorities), for the word "following" there shall be substituted " suitable "; and after sub-paragraph (3) of that paragraph there shall be inserted the followingsub-paragraph—

"(4) For the purposes of sub-paragraphs (1) and (2) above the next suitable meeting of a local authority is their next following meeting or, where standing orders made by the authority in accordance with regulations under section 20 of the Local Government and Housing Act 1989 provide for another meeting of the authority to be regarded as suitable, either the next following meeting or that other meeting."

The Land Compensation Act 1973

31 In section 37 of the [M259]Land Compensation Act 1973 (disturbance payments for persons without compensatable interests), insubsection (2), in paragraph (c) for the words from "an owner-occupier's supplement" onwards there shall be substituted the words " a payment under section 584A(1) of the Housing Act 1985 (compensation payable in case of closing and demolition orders) ".

Marginal Citations
M259 1973 c. 26.

32 (1) In section 42(6) of that Act, in the definition of "Housing Revenue Account dwelling", for the words from "Part XIII of the [M260]Housing Act 1985)" to the end there shall be substituted the words " Part VI of the Local Government and Housing Act 1989) ".

(2) This paragraph has effect for years beginning on or after 1st April 1990 and in this sub-paragraph "year" has the same meaning as in Part XIII of the Housing Act 1985 (general financial provisions).

Marginal Citations
M260 1985 c.68.

The Local Government (Scotland) Act 1973

[F366]33 . . . . . .

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F366 Sch. 11 para. 33 repealed (S.) (1.5.2003) by Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), s. 37(2), **sch. 4** (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

34 In section 47 of that Act (allowances for conferences and meetings)—

(a) in subsection (1) (allowances payable), for the words from "allowancesin the nature of" onwards there shall be substituted "allowances in the nature of an attendance allowance and an allowance for travel and subsistence, as they think fit.

(1A) payments made under subsection (1) above shall be of such reasonable amounts as the body in question may determine in a particular case or class of case but shall not exceed—

(a) in the case of payments of an allowance in the nature of an attendance allowance, such amounts as may be specified in or determined under regulations made by the Secretary of State; and

(b) in the case of payments of an allowance in the nature of an allowance for travel and subsistence in respect of a conference or meeting held in the United Kingdom, such amounts as may be specified under section 46 above for the corresponding allowance under that section;

and regulations made by the Secretary of State may make it a condition of any payment mentioned in paragraph (a) above that, in the financial year to which the payment would relate, the aggregate amount which the body inquestion has paid or is already liable to pay in respect of any prescribed allowance or allowances does not exceed such maximum amount as may be specified in or determined under the regulations.";

(b) in subsection (3A) (conferences to which section applies in relation tojoint boards and committees), for the words "such body as is mentioned in section 49(1)(c) or (d) below" there shall be substituted the words " body which is a joint board, joint authority or other combined body all the membersof which are representatives of local authorities ".

Commencement Information

I17 Sch. 11 para. 34 wholly in force at 1.4.1991, see s. 195(2)(3) and S.I. 1991/344, art. 3(2)(a), **Sch.**

35 (1) Section 49 of that Act shall be amended as follows.

(2) For subsection (1) (bodies to which sections 46 and 47 apply) there shall be substituted the following subsection—

"(1) Sections 46 and 47 above apply—

(a) to the bodies specified in section 21(2) of the Local Government and Housing Act 1989; and

(b) to any prescribed body on which a body to which those sections apply byvirtue of paragraph (a) above is represented."

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(3) For subsection (2) (meaning of "approved duties") there shall be substituted the following subsection—

"(2) In sections 46 to 48 above "approved duty", in relation to a member of a body, means such duties as may be specified in or determined under regulations made by the Secretary of State."

(4) In subsection (4) (members not excluded from discussion of allowances), at the end there shall be inserted the words " or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989 ".

PROSPECTIVE

36 In sub-paragraph (1) of paragraph 7 of Schedule 7 to that Act (recording the minutes of meetings of local authorities) for the word "following" there shall be substituted the word " suitable "; and after sub-paragraph (2) of that paragraph there shall be inserted the following sub-paragraph—

"(3) For the purposes of sub-paragraph (1) above, the next suitable meeting of a local authority is their next following meeting or, where standing orders made by the authority in accordance with regulations under section 20 of the Local Government and Housing Act 1989 provide for another meeting of theauthority to be regarded as suitable, either the next following meeting or that other meeting."

The Local Government Act 1974

37 In section 23(4) of the [M261]Local Government Act 1974 (consultation in appointing Local Commissioners), for the words "appropriate representative body," there shall be substituted the words " such persons as appear to the Secretary of State to represent authorities in England or, as the case may be, authorities in Wales to which this Part of this Act applies ".

Marginal Citations
M261 1974 c. 7.

38 In section 23(12) of that Act (triennial reports to Part III authorities) the words "(through the appropriate representative body designated under section 24 below)" shall be omitted and at the end there shall be inserted the words " and shall send copies of those recommendations or conclusions to the representative persons and authorities concerned ".

39 (1) In section 31(3)(a) of that Act (further provisions about reports on investigations), for "(1) or (2A)" there shall be substituted " (2) or (2C) ".

(2) This paragraph shall not have effect in relation to a report made before the coming into force of section 26 of this Act.

40 In section 32(1) of that Act (publications enjoying absolute privilege for the purposes of the law of defamation), the following paragraph shall be inserted at the end—

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"(e) the publication of any matter by inclusion in a statement published in accordance with section 31(2D), (2E) and (2F) or (2G) above."

41 In Schedule 4 to that Act (further provisions about the Commissions)—

(a) in paragraph 6, after "Subject to" there shall be inserted " section 31(2H) above and "; and

(b) in paragraph 7, after "Subject to" there shall be inserted " section 31(2H) above and ".

The Housing Act 1974

42 At the end of section 131(4) of the [M262]Housing Act 1974 (commencement orders, savings) there shall be added the words " and an order under subsection (3) above may be revoked or varied by a further order under that subsection which may itself contain such savings with respect to the effect of the revocation or variation as appear to the Secretary of State tobe appropriate ".

Marginal Citations
M262 1974 c. 44.

The Local Government (Scotland) Act 1975

[[F367]43 In section 4 of the [M263]Local Government (Scotland) Act 1975 (valuation appeal committees) after subsection (7) there shall beinserted the following subsection—

"(7A) There shall be paid to members of a valuation appeal committee and to members of a local valuation panel such allowances as may be determined by the Secretary of State."**]**

Textual Amendments
F367 Sch. 11 para. 43 repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(d), **Sch. 2**

Marginal Citations
M263 1975 c. 30.

[[F368]44(1) In section 29(3)(a) of that Act (further provisions about reports on investigations), for "(1) or (2A)" there shall be substituted " (2) or (2C) ".

(2) This paragraph shall not have effect in relation to a report made before the coming into force of section 27 of this Act.**]**

Textual Amendments
F368 Sch. 11 para. 44 repealed (S.) (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 13(d)**; S.S.I. 2002/467, **art. 2**

[[F369]45 In section 30(1) of that Act (publications enjoying absolute privilege for the purposes of the law of defamation), the following paragraph shall be inserted at the end—

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"(e) the publication of any matter by inclusion in a statement published in accordance with section 29(2D), (2E) and (2F) or (2G) of this Act."**]**

Textual Amendments

F369 Sch. 11 para. 45 repealed (S.) (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 13(d)**; S.S.I. 2002/467, **art. 2**

[F370 46 In Schedule 4 to that Act (further provisions about the Commissioner) in paragraph 5, at the beginning, there shall be inserted " Subject to section 29(2H) of this Act, ".**]**

Textual Amendments

F370 Sch. 11 para. 46 repealed (S.) (23.10.2002) by Scottish Public Services Ombudsman Act 2002 (asp 11), s. 25, **Sch. 6 para. 13(d)**; S.S.I. 2002/467, **art. 2**

The Local Government (Miscellaneous Provisions) Act 1976

47 In section 33 of the M264 Local Government (Miscellaneous Provisions) Act 1976 (restoration or continuation of supply of water, gas or electricity) in subsection (4) for the word "and", where it first occurs, there shall be substituted " the sum so recoverable, together with any interest accrued due, shall, until recovered, be a charge on the premises concerned and if " and at the end of that subsection there shall be inserted the following subsection—

"(4A) A charge under subsection (4) above takes effect from the date when the council makes the payment referred to in that subsection and, for the purposesof enforcing a charge,—

(a) the council shall have the same powers and remedies, under the Law of Property Act 1925 and otherwise, as if it were a mortgagee by deed having powers of sale and lease, of accepting surrenders of leases and, subject to paragraph (b) below, of appointing a receiver; and

(b) the power to appoint a receiver shall be exercisable at any time after the expiry of one month from the date when the charge takes effect."

Marginal Citations

M264 1976 c. 57.

48 In section 40 of that Act (local authorities not affected by trusts attaching to certain securities issued by them), in subsection (1) after the word "officer" there shall be inserted " or other person ".

The Rent (Agriculture) Act 1976

49 In section 33 of the M265 Rent (Agriculture) Act 1976 (suspension of condition attached to planning permission), in subsection (2) after the words "let on or subject to" there shall be inserted " anassured agricultural occupancy, within the meaning of Chapter III of Part I of the Housing Act 1988, or ".

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Marginal Citations
M265 1976 c. 80.

50 In Schedule 2 to that Act (meaning of "relevant licence" and "relevant tenancy"), in paragraph 2 (meaning of "relevant tenancy")after "applies" there shall be inserted " a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applies ".

The Rent Act 1977

F371 51 . . . . . .

Textual Amendments
F371 Sch. 11 para. 51 repealed (2.9.1993) by 1993 c. 28, s. 187(2), **Sch.22**; S.I. 1993/2134, **arts. 2**,3

[F372 52 (1) In section 116 of that Act (dwelling subject to statutory tenancy: works to which the tenant is unwilling to consent) in subsection (2) for the words from "paragraph (a)" to "paragraph (b)" there shall be substituted " any of paragraphs (a) to (c) ".

(2) At the end of subsection (3) of that section there shall be added

(c) that the works were specified in an application for a renovation grant, a common parts grant, a disabled facilities grant or an HMO grant under Part VIII of the Local Government and Housing Act 1989 and the application has been approved."

(3) At the end of subsection (5) of that section there shall be added the words " or, as the case may be, with any condition under section 118(2) of the Local Government and Housing Act 1989 ".**]**

Textual Amendments
F372 Sch. 11 para. 52 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to art. 8)

53 (1) In section 137 of that Act (effect on sub-tenancy of determination of superior tenancy), in subsection (5) after the words "a protected tenancy" there shall be inserted " or an assured tenancy, within the meaning of Part I of the Housing Act 1988 ".

(2) In subsection (6) of that section—

(a) in paragraph (a) after "1954" there shall be inserted " or, as the case may be, served under paragraph 4(1) of Schedule 10 to the Local Government and Housing Act 1989 ";

(b) in paragraph (b) for the words "that Act" there shall be substituted " the said Act of 1954 or, as the case may be, paragraph 3 of the said Schedule 10 "; and

(c) in the words following paragraph (b) for the words "Part I of that Act" there shall be substituted " Part I of the said Act of 1954 or, as the case may be, the said Schedule 10 ".

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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The Protection from Eviction Act 1977

54 In section 8 of the [M266]Protection from Eviction Act 1977 (interpretation), in subsection (1) (meaning of "statutorily protected tenancy") after paragraph (e) there shall be inserted—

"(e) a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applies".

Marginal Citations
M266 1977 c. 43.

PROSPECTIVE

The Education (Scotland) Act 1980

55 In Schedule A1 to the [M267]Education (Scotland) Act 1980, for paragraph 9 there shall be substituted the following paragraph—

"9 There shall be paid to members of an appeal committee constituted in accordance with this Schedule such allowances as may be determined by the Secretary of State."

Marginal Citations
M267 1980 c. 44.

PROSPECTIVE

The Local Government, Planning and Land Act 1980

56 In section 98 of the [M268]Local Government, Planning and Land Act 1980 (disposal of land at direction of Secretary of State), in subsection (8), at the end of paragraph (b) the word "or" shall be omitted and at the end of paragraph (c) there shall be added—

"or

(d) in any case where the body to whom this Part of this Act applies is one of the bodies specified in subsection (8A) below, the other body is a company under the control or subject to the influence of that body within the meaning of Part V of the Local Government and Housing Act 1989 (companies in which local authorities have interests).

(8A) The bodies referred to in subsection (8)(d) above are—

(a) a county council;

[[F373](aa) a county borough council;**]**

(b) a district council;

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Changes to legislation: *Local Government and Housing Act 1989 is up to date with all changes known to be in force on or before 18 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)*

(c) a London borough council;

(d) the Common Council of the City of London; [F374]...

(e) a joint authority established by Part IV of the Local Government Act 1985;

[[F375]**[**

[F376](eza) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;

(ezb) a combined authority established under section 103 of that Act;**]** and

(ea) [F377]. . . . . .

[[F378](f) the London Fire Commissioner.”**]]**

Textual Amendments

F373 Words in Sch. 11 para. 56 inserted (3.4.1995) by Local Government (Wales) Act 1994 (c. 19), s. 66(6), **Sch. 16 para. 57(4)**; S.I. 1995/852, art. 9(1), **Sch. 5** (subject to art. 9(2)-(5))

F374 Word in Sch. 11 para. 56 repealed (3.7.2000) by the Greater London Authority Act 1999 (c. 29), s. 423, **Sch. 34 Pt. VIII**; S.I. 2000/1094, **art. 4(i)**

F375 Words in Sch. 11 para. 56 inserted (3.7.2000) by the Greater London Authority Act 1999 (c. 29), s. 328, **Sch. 29 para. 30**; S.I. 2000/1094, **art. 4(h)**

F376 Words in Sch. 11 para. 56 inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 119, **Sch. 6 para. 50**; S.I. 2009/3318, **art. 2(c)**

F377 Words in Sch. 11 para. 56 repealed (26.5.2015) by Deregulation Act 2015 (c. 20), s. 59, **Sch. 13 para. 6(14)(b)**; S.I. 2015/994, **art. 6(g)**

F378 Words in Sch. 11 para. 56 substituted (31.1.2017 for specified purposes) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 58**

Marginal Citations

M268 1980 c. 65.

57 In section 100 of that Act (interpretation and extent of Part X) for subsection (1) there shall be substituted the following subsections—

“(1) Except where the context otherwise requires, in this Part of this Act, “subsidiary”, in relation to a body to whom this Part of this Act applies, means—

(a) if that body is a county council, **[**[F379]county borough council**]** district council, London borough council, the Common Council of the City of London **[**[F380], the London Fire Commissioner**]****[**[F381], a joint authority established by Part 4 of the Local Government Act 1985 **[**[F382], an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,**]****[**[F383]or a combined authority established under section 103 of that Act**]**, a company under the control, or subject to the influence, of that body within the meaning of Part V of the Local Government and Housing Act 1989 (companies in which local authorities have interests); and

(b) in the case of any other body, a wholly-owned subsidiary of that body.

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(1A) In this Part of this Act, "wholly-owned subsidiary" has the meaning assigned to it by **[**[F384]section 1159 of the Companies Act 2006**]**."

Textual Amendments

F379 Words in Sch. 11 para. 57 inserted (29.4.1996) by S.I. 1996/1008, art. 2, **Sch. Pt. I para. 2**

F380 Words in Sch. 11 para. 57 substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), **Sch. 2 para. 60**; S.I. 2018/227, reg. 4(c)

F381 Words in Sch. 11 para. 57 substituted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(5), **Sch. 13 para. 36(5)**; S.I. 2008/917, art. 2(1)(p)

F382 Words in Sch. 11 para. 57 inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), s. 148(6), **Sch. 6 para. 52**; S.I. 2009/3318, art. 2(c)

F383 Words in Sch. 11 para. 57 substituted (26.5.2015) by Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 13 para. 6(14)(d)**; S.I. 2015/994, art. 6(g)

F384 Words in Sch. 11 para. 57 substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 46(3)(b)** (with art. 10)

The New Towns Act 1981

58 In Schedule 9 to the [M269]New Towns Act 1981 (additional provisions as to the Commission for the New Towns), in paragraph 6 (sealing and execution of documents) after the word "member", in the first place where it occurs, there shall be inserted " or officer of the Commission ".

Marginal Citations

M269 1981 c. 64.

The Stock Transfer Act 1982

59 In section 1 of the [M270]Stock Transfer Act 1982 (transfer of certain securities through a computerised system), in subsection (3), in paragraph (b) for the words "paragraph 4 of Schedule 13 to the Local Government Act 1972" there shall be substituted " section 43 of the Local Government and Housing Act 1989 (borrowing powers) ".

Marginal Citations

M270 1982 c. 41.

PROSPECTIVE

The County Courts Act 1984

60 In section 77 of the [M271]County Courts Act 1984 (appeals: general provisions), in subsection (6) after paragraph (ee) there shall be inserted the following paragraph—

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"(ef) paragraph 13(4) of Schedule 10 to the Local Government and Housing Act 1989; or".

Marginal Citations
M271 1984 c. 28.

Rent (Scotland) Act 1984

61 In section 58(7) of the [M272]Rent (Scotland) Act 1984 (power to vary sum of £104 specified in phasing formula under section 58(2)) for the words "the sum specified in" there shall be substituted the words " or repealing any of the provisions of ".

Marginal Citations
M272 1984 c. 58.

The Housing Act 1985

62 In section 8 of the [M273]Housing Act 1985 (periodical review of housing needs), in subsection (2) for the words from "inspections" onwards there shall be substituted " the consideration of the housing conditions in their district under section 605 ".

Marginal Citations
M273 1985 c. 68.

[[F385]63 In each of sections 47(4) and 48(3A) of that Act (limitation of service charges etc.), after the words "Part XV" there shall be inserted " of this Act or Part VIII of the Local Government and Housing Act 1989 ".**]**

Textual Amendments
F385 Sch. 11 para. 63 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to art. 8)

64 In section 54 of that Act (powers of entry), at the end of subsection (2) there shall be added the words " and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ".

65 (1) In section 55 of that Act (penalty for obstruction), in subsection (1)after the word "offence" there shall be inserted " intentionally ".

(2) In subsection (2) of that section for the words "level 2" there shall be substituted " level 3 ".

[[F386]66 In section 100 of that Act (power to reimburse cost of secure tenant's improvements), after subsection (2) there shall be inserted the following subsection—

"(2A) In subsection (2)—

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(a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and

(b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII."**]**

Textual Amendments

F386 Sch. 11 para. 66 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to art. 8)

[F387 67 In section 101 of that Act (rent not to be increased on account of tenant's improvements), after subsection (1) there shall be inserted the following subsection—

"(1A) In subsection (1)—

(a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and

(b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII."**]**

Textual Amendments

F387 Sch. 11 para. 67 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to art. 8)

[F388 68 In section 244 of that Act (environmental works), in subsection (3) after the word "works" there shall be inserted " (a) ", after the word "grant", in the last place where it occurs, there shall be inserted " under Part XV " and at the end there shall be added

(e) which are included in the external works specified in a group repair scheme, within the meaning of Part VIII of the Local Government and Housing Act 1989, in which the person concerned is eligible to participate.

(3A) In subsection (3)—

(a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and

(b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII."**]**

Textual Amendments

F388 Sch. 11 para. 68 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to art. 8)

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[F389 69 In section 255 of that Act (general powers of local housing authority in general improvement areas) after subsection (2) there shall be inserted the following subsection—

"(3) In subsection (2)(b)—

(a) the reference to an improvement grant under Part XV includes a reference to a renovation grant, disabled facilities grant or HMO grant under Part VIII of the Local Government and Housing Act 1989; and

(b) the reference to a common parts grant under Part XV includes a referenceto a common parts grant under the said Part VIII."**]**

Textual Amendments

F389 Sch. 11 para. 69 repealed (E.W.) (17.12.1996) by 1996 c. 53, s. 147, **Sch. 3 Pt. I**; S.I. 1996/2842, **art. 3** (subject to art. 8)

70 In section 289 of that Act (declaration of clearance area), subsection (6)shall cease to have effect.

71 In section 327 of that Act (penalty for occupier causing or permitting overcrowding), in subsection (3)—

(a) for the words "level 1" there shall be substituted " level 2 ";and

(b) for "£2" there shall be substituted " one-tenth of the amount corresponding to that level ".

72 In section 331 of that Act (penalty for landlord causing or permitting overcrowding), in subsection (3)—

(a) for the words "level 1" there shall be substituted " level 2 ",and

(b) for "£2" there shall be substituted " one-tenth of the amount corresponding to that level ".

73 In section 340 of that Act (powers of entry), at the end of subsection (2) there shall be added the words " and shall, if so required, be produced for inspection by the occupier or anyone acting on his behalf ".

74 (1) In section 341 of that Act (penalty for obstruction), in subsection (1) after the word "offence" there shall be inserted " intentionally ".

(2) In subsection (2) of that section for the words "level 2" there shall be substituted " level 3 ".

F390 75 . . . . . .

Textual Amendments

F390 Sch. 11 para. 75 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

F391 76 . . . . . .

Textual Amendments

F391 Sch. 11 para. 76 repealed (3.3.1997) by 1996 c. 52, s. 227, **Sch. 19 Pt. II**; S.I. 1997/596, **art. 2**

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77 (1) In subsection (1) of section 421 of that Act (housing subsidy), for the words "housing authorities" there shall be substituted the words " new town corporations and the Development Board for Rural Wales ".

(2) In subsection (2) of that section, for paragraphs (a) and (b) there shall be substituted the words " to the body's housing account ".

(3) This paragraph and paragraphs 78 to 84 below have effect for years beginning on or after 1st April 1990 and in this sub-paragraph "year" has the same meaning as in Part XIII of that Act (general financial provisions).

78 (1) In subsection (1) of section 422 of that Act (calculation of housing subsidy for local housing authorities), for the words "local housing authority" there shall be substituted the words " new town corporation "and for the word "authority's" there shall be substituted the word " corporation's ".

(2) In subsection (2) of that section, for the word "authority" there shall be substituted the word " corporation ".

79 (1) In subsection (1) of section 423 of that Act (the base amount), for the words "local housing authority's" there shall be substituted the words " new town corporation's " and for the word "authority" there shall be substituted the word " corporation ".

(2) In subsection (2) of that section, the words "any description of authority or" shall cease to have effect.

80 (1) In subsection (1) of section 424 of that Act (the housing costs differential), for the words "local housing authority's" there shall be substituted the words " new town corporation's ".

(2) In subsection (2) of that section, for the words "local housing authority's" there shall be substituted the words " new town corporation's ", for the word "authority", in each place where it occurs, there shall be substituted the word " corporation " and for the words "the authority's Housing Revenue Account" there shall be substituted the words " the corporation's housing account ".

(3) For subsection (3) of that section there shall be substituted the following subsection—

"(3) A determination may be made for all new town corporations or different determinations may be made for individual corporations; and a determination may be varied or revoked in relation to all or any of the corporations for which it was made."

(4) In subsection (4) of that section, for the words "local housing authorities", in both places where they occur, there shall be substituted the words " new town corporations ".

81 (1) In subsection (1) of section 425 of that Act (the local contribution differential), for the words "local housing authority's" there shall be substituted the words " new town corporation's ".

(2) In subsection (2) of that section, for the words "An authority's" there shall be substituted the words " A corporation's ", for the word "authority", in both places where it occurs, there shall be substituted the word " corporation ", for the words "Housing Revenue Account" there shall be substituted the words " housing account " and for the words "general rate fund" there shall be substituted the words " general revenue account ".

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(3) For subsection (4) of that section there shall be substituted the following subsection—

"(4) A determination may be made for all new town corporations or different determinations may be made for different corporations or groups of corporations."

(4) In subsection (5) of that section, for the words "local housing authorities", in both places where they occur, there shall be substituted the words " new town corporations ".

(5) In subsection (6) of that section, for the word "authorities" there shall be substituted the words " corporations ".

F392 82 . . . . . .

Textual Amendments

F392 Sch. 11 para. 82 repealed (1.10.1998) by 1998 c. 38, s. 152, **Sch. 18 Pt. IV**; S.I. 1998/2244, **art. 4**

83 In section 427(1) of that Act (recoupment of subsidy in certain cases),for the words "local housing authority or other body" there shall be substituted the words " new town corporation or the Development Board for Rural Wales " and for the words "the authority or other body" there shall be substituted the words " that body ".

84 In section 427A of that Act (entitlement to subsidy in case of land subject to a management agreement), for the words "local housing authority or other body" there shall be substituted the words " new town corporationor the Development Board for Rural Wales " and for the words "that authority or body's" there shall be substituted the words " that body's ".

85 In section 582 of that Act (restriction on recovery of possession after making of compulsory purchase order), in subsection (1)(b) for the words "section 243(2) (land in housing action area" there shall be substituted " section 93(2) of the Local Government and Housing Act 1989 (land in renewal area) ".

86 In section 584 of that Act (power to enter and determine short tenancies of land acquired or appropriated), in subsection (1), the word "or", in the last place where it occurs, shall be omitted and after the words "the provisions of Part IX relating to clearance areas," there shall be inserted "or

Part VII of the Local Government and Housing Act 1989 (renewal areas)".

87 In Schedule 14 to that Act (the keeping of the Housing Revenue Account), in Part V (other supplementary provisions), in paragraph 8 (contributions in respect of land in general improvement area), after the words "section259" there shall be inserted " of this Act ", after the words "general improvement area)" there shall be inserted " or section 96 of the Local Government and Housing Act 1989 (contributions by Secretary of State towards expenditure on renewal area) " and after the words "Part II" there shall be inserted " of this Act ".

88 In Schedule 16 to that Act (local authority mortgage interest rates), for paragraph 4 there shall be substituted the following paragraph—

"4 (1) The rate declared under paragraph 3(a) or (b) shall be a rate calculated in such manner as the Secretary of State may determine.

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(2) A determination under this paragraph—

(a) may make different provision for different cases or descriptions of cases, including different provision for different areas, for different local authorities or for different descriptions of local authorities; and

(b) may be varied or withdrawn by a subsequent determination.

(3) As soon as practicable after making a determination under this paragraph, the Secretary of State shall send a copy of the determination to the local authority or authorities to which it relates."

The Landlord and Tenant Act 1985

89 In section 14 of the [M274]Landlord and Tenant Act 1985 (leases to which section 11—repairing obligations in short leases—applies: exceptions), in subsection (4) after the words "Rent Act 1977" there shall be inserted " or paragraph 8 of Schedule 1 to the Housing Act 1988 ".

Marginal Citations
M274 1985 c. 70.

90 In section 20A of that Act (service charges) after the words "HousingAct 1985" there shall be inserted " or Part VIII of the Local Government and Housing Act 1989 " and at the end there shall be added the following subsection—

"(2) In any case where—

(a) relevant costs are incurred or to be incurred on the carrying out of works which are included in the external works specified in a group repair scheme,within the meaning of Part VIII of the Local Government and Housing Act 1989,and

(b) the landlord participated or is participating in that scheme as an assisted participant,

the amount which, in relation to the landlord, is the outstanding balance determined in accordance with subsections (3) and (4) of section 130 of that Act shall be deducted from the costs, and the amount of the service charge payable shall be reduced accordingly."

91 (1) In section 21 of that Act (summary of relevant costs for the purposes of service charges), in subsection (5) after the words "Housing Act 1985" there shall be inserted " or Part VIII of the Local Government and Housing Act 1989 ".

(2) After subsection (5A) of that section there shall be inserted the following subsection—

"(5B) The summary shall state whether any of the costs relate to works which are included in the external works specified in a group repair scheme, within the meaning of Part VIII of the Local Government and Housing Act 1989, in which the landlord participated or is participating as an assisted participant."

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PROSPECTIVE

The Education Act 1986

92 **[**F393In section 4(2)(a) of the M275Education Act 1986 (definition of "the pooling provisions" for the purposes of sections 2 and 3 of that Act) after "that Schedule" there shall be inserted " and section 147 of the Local Government and Housing Act 1989 ".**]**

Textual Amendments

F393 Sch. 11 para. 92 repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), **Sch. 1 Pt. 10** Group 2

Marginal Citations

M275 1986 c. 40.

The Housing (Scotland) Act 1987

93 In section 61(3) of the M276Housing (Scotland) Act 1987 (application of right to buy to tenants under secure tenancies granted after acquisition by landlord of defective dwelling) for "282(3)" there shall be substituted " 282(2) or (3) ".

Marginal Citations

M276 1987 c. 26.

94 In section 62(1) of that Act (price at which secure tenant entitled to buy house to be market value less discount) there shall be inserted after "fixed" the words " as at the date of service of the application to purchase ".

95 In section 239A(1) of that Act (directions to prevent duplications of grant), at the end there shall be inserted the words " or are or are not to perform their duties under this Part ".

The Local Government Act 1988

96 In section 25 of the M277Local Government Act 1988 (consent required for provision of financial assistance etc.) in subsection (1)(b) after the word "power" there shall be inserted " (whether conferred before or after the passing of this Act) ".

Marginal Citations

M277 1988 c. 9.

PROSPECTIVE

F39497 . . . . . .

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F394 Sch. 11 para. 97 repealed (18.11.2003 for E. and 27.11.2003 for W.) by Local Government Act 2003 (c. 26), s. 128(6), **Sch. 8 Pt. 1**; S.I. 2003/2938, art. 3(i)(iii) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

PROSPECTIVE

The Education Reform Act 1988

F395 98 . . . . . .

Textual Amendments

F395 Sch. 11 para. 98 repealed (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/2454, **art. 3(1)**

The Housing (Scotland) Act 1988

99 In section 16 of the M278 Housing (Scotland) Act 1988—

(a) in paragraph (b) (ii) of subsection (1) (tenant under statutory assured tenancy not bound by certain original provisions for rent increases)—

(i) after the words "specified in" there shall be inserted the words " or fixed by reference to factors specified in "; and

(ii) after the words "there specified" there shall be inserted the words " , or fixed by reference to factors there specified, "; and

(b) after that subsection there shall be inserted the following subsection—

"(1A) The factors referred to in subsection (1) (b) (ii) above must be—

(a) factors which, once specified, are not wholly within the control of the landlord; and

(b) such as will enable the tenant at all material times to ascertain without undue difficulty any amount or percentage falling to be fixed by reference to them."

Marginal Citations

M278 1988 c. 43.

100 In section 24 of that Act—

(a) in subsection (1) (procedure for securing rent increase in assured tenancies) —

(i) for the word "an" there shall be substituted the words " a statutory "; and

(ii) in each of paragraphs (a) and (b), after the word "was" there shall be inserted the words " at the time of service of the notice ".

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(b) in subsection (5) (saving, from rent increase procedure for assured tenancies, of operation of certain tenancy provisions for such increases)—

(i) for the words from "affects" to "tenancy", where first occurring, there shall be substituted the following—

"(a) extends to a statutory assured tenancy of which there is a term".

(ii) after the words "specified in" there shall be inserted the words " ,or fixed by reference to factors specified in, ";

(iii) after the words "there specified" there shall be inserted the words " , or fixed by reference to factors there specified, "; and

(iv) there shall be inserted at the end the words "or

(b) affects the operation of any term of a contractual tenancy which makes provision for an increase in rent (including provision whereby the rent for a particular period will or may be greater than that for an earlier period)"; and

(c) after that subsection there shall be inserted the following subsection—

"(6) The factors referred to in subsection (5) above must be—

(a) factors which, once specified, are not wholly within the control of the landlord; and

(b) such as will enable the tenant at all material times to as certain without undue difficulty any amount or percentage falling to be fixed by reference to them."

The Housing Act 1988

101 In section 7 of the [M279]Housing Act 1988 (orders for possession), in subsection (3) for the words "subsection (6)" there shall be substituted " subsections (5A) and (6) ".

(2) In subsection (4) of that section for the words "subsection (6)" there shall be substituted " subsections (5A) and (6) ".

(3) After subsection (5) of that section there shall be inserted the following subsection—

"(5A) The court shall not make an order for possession of a dwelling-house let on an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989 on any of the following grounds, that is to say,—

(a) Grounds 1, 2 and 5 in Part I of Schedule 2 to this Act;

(b) Ground 16 in Part II of that Schedule; and

(c) if the assured periodic tenancy arose on the termination of a former 1954 Act tenancy, within the meaning of the said Schedule 10, Ground 6 in Part I of Schedule 2 to this Act."

Marginal Citations

M279 1988 c. 50.

Status: *Point in time view as at 18/11/2003. This version of this Act contains provisions that are not valid for this point in time.*
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102 In section 15 of that Act (limited prohibition on assignment etc. without consent), in subsection (3) after the words "which is not a statutory periodic tenancy" there shall be inserted " or an assured periodic tenancy arising under Schedule 10 to the Local Government and Housing Act 1989 ".

103 In section 21 of that Act (recovery of possession on expiry or termination of assured shorthold tenancy), in subsection (1)(a) for the words "astatutory periodic tenancy" there shall be substituted " an assured shorthold periodic tenancy (whether statutory or not) ".

104 In section 34 of that Act (new protected tenancies etc. restricted to special cases), in subsection (1) for paragraph (d) there shall be substituted the following paragraph—

"(e) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by a new town corporation, within the meaning of section 80 of the Housing Act 1985, and, before the date which has effect by virtue of paragraph (a) or paragraph (b) of subsection (4) of section 38 below, ceased to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981".

105 (1) In section 35 of that Act (removal of special regimes for tenancies of housing associations etc.) in subsection (2) for paragraph (d) there shall be substituted the following paragraph—

"(e) it is a tenancy under which the interest of the landlord was at the time the tenancy was granted held by a new town corporation, within the meaning of section 80 of the Housing Act 1985, and, before the date which has effect by virtue of paragraph (a) or paragraph (b) of subsection (4) of section 38 below, ceased to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act1981"

(2) At the beginning of subsection (4) of that section there shall be inserted the words " Subject to section 38 (4A) below ".

106 (1) In section 38 of that Act (transfer of existing tenancies from public to private sector) at the beginning of subsection (3) there shall be inserted " Subject to subsections (4) and (4A) below ".

(2) In subsection (4) of that section (special provisions for tenancies held of a new town corporation) after the words "Housing Act 1985" there shall be inserted " and which subsequently ceases to be so held by virtue of a disposal by the Commission for the New Towns made pursuant to a direction under section 37 of the New Towns Act 1981 ".

(3) After subsection (4) of that section there shall be inserted the following subsection—

"(4A) Where, by virtue of a disposal falling within subsection (4) above and made before the date which has effect by virtue of paragraph (a) or paragraph (b) of that subsection, the interest of the landlord under a tenancy passes to a registered housing association, then, notwithstanding anything in subsection (3) above, so long as the tenancy continues to be held by a body which would have been specified in subsection (1) of section 80 of the Housing Act 1985 if the repeal of provisions of that section effected by this Act had not been made, the tenancy shall continue to be a secure tenancy and to be capable of being a housing association tenancy."

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F396 107 . . . . . .

Textual Amendments

F396 Sch. 11 para. 107 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to Sch.)

108 In Schedule 2 to that Act (grounds for possession of dwelling-houses let on assured tenancies), in Part I (grounds on which court must order possession), in Ground 6 in the paragraph following paragraph (c)—

(a) after the words "joint tenants", in the second place where they occur, there shall be inserted " of the dwelling-house concerned ";

(b) for the words "of the dwelling-house concerned" there shall be substituted " or, as the case may be, under a tenancy to which Schedule 10 to the Local Government and Housing Act 1989 applied "; and

(c) after the words "earlier assured tenancy", in the second place where they occur, there shall be inserted " or, as the case may be, to the grant of the tenancy to which the said Schedule 10 applied ".

F397 109 . . . . . .

Textual Amendments

F397 Sch. 11 para. 109 repealed (1.10.1996) by 1996 c. 52, s. 227, **Sch. 19 Pt. IX**; S.I. 1996/2402, **art. 3** (subject to Sch.)

110 In Schedule 5 to that Act (Housing for Wales), in paragraph 5 (remuneration and allowances), in sub-paragraph (1)—

(a) for the words "Secretary of State" there shall be substituted " Corporation "; and

(b) for the word "he" there shall be substituted " Secretary of State ".

111 In Schedule 6 to that Act, in paragraph 9 (amendments of section 15 of M280 Housing Associations Act 1985), in sub-paragraph (2) for "(3)" there shall be substituted " (2A) ".

Marginal Citations

M280 1985 c. 69.

112 In Schedule 18 to that Act (enactments repealed) at the end of paragraph 4 at the end of that Schedule (scope of repeals of section 80 of the M281 Housing Act 1985) there shall be added "and

(c) do not have effect in relation to a tenancy while it is a housing association tenancy."

Marginal Citations

M281 1985c. 68.

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The Social Security Act 1989

F398 113 . . . . . .

Textual Amendments

F398 Sch. 11 para. 113 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), s. 3, **Sch.1**

SCHEDULE 12

Section 194.

ENACTMENTS REPEALED

PART I

LOCAL AUTHORITY FINANCE

38 and 39 Vict. c. 83.	The Local Loans Act 1875.	The whole Act.
45 and 46 Vict. c. 50.	The Municipal Corporations Act 1882.	In Part I of Schedule 9, the entry relating to the Local Loans Act 1875.
48 and 49 Vict. c. 30.	The Local Loans Sinking Funds Act 1885.	The whole Act.
51 & 52 Vict. c. 25.	The Railway and Canal Traffic Act 1888.	In section 54, subsections (3) and (4).In section 55, the words from "The term "conservancy authority"" onwards.
55 & 56 Vict. c. 43.	The Military Lands Act 1892.	Section 8(3).
8 Edw. 7 c. 36.	The Small Holdings and Allotments Act 1908.	Section 52(3).
9 and 10 Geo. 6 c. 58.	The Borrowing (Control and Guarantees) Act 1946.	In section 1, in the proviso to subsection (1) the words "(other than a local authority)".
11 & 12 Geo. 6 c. 26.	The Local Government Act 1948.	In section 125(2)(d), the words from "section thirty" to "Act) or".
7 and 8 Eliz. 2 c. 53.	The Town and Country Planning Act 1959.	Section 27.
1964 c. 9.	The Public Works Loans Act 1964.	In section 6, in subsection (1) the words from "section 216(1)" to "London Government Act 1939 and".

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1964 c. 48.	The Police Act 1964.	In section 8, subsection (2).
1968 c. 73.	The Transport Act 1968.	In section 12, subsection (6) and in subsection (7), in paragraph (b), the words "section 203 of the Local Government Act 1933 and".
1969 c. 19.	The Decimal Currency Act 1969.	In Schedule 2, paragraph 14.
1971 c. 78.	The Town and Country Planning Act 1971.	In section 123, subsection (8).
1972 c. 70.	The Local Government Act 1972.	In section 68, subsections (6) and (7).Section 123(6).Section 153. Insection 172, the words from the beginning to "their funds, and ". In Schedule 13, paragraphs 1 to 22 and paragraph 26.
1974 c. 7.	The Local Government Act 1974.	In Schedule 7, paragraph 12.
1976 c. 57.	The Local Government (Miscellaneous Provisions) Act 1976.	Section 28.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Sections 71 to 80B. Sections 82 to 85. Schedule 12.
1982 c. 32.	The Local Government Finance Act 1982.	In section 5, subsection (1).In Schedule 5, paragraph 8(3).
1982 c. 41.	The Stock Transfer Act 1982.	In section 5, subsection (1).
1985 c. 51.	The Local Government Act 1985.	Sections 70 and 71. In section 74(5), the words from "(including" to "1875)". Sections 75 and 76. In section 77, in subsection (1), paragraph (a) and in subsection (3), paragraph (c) and the word "and" immediately preceding it. In Schedule 14, paragraph 17 and in paragraph 59(1), paragraphs (c) and (d).
1985 c. 67.	The Transport Act 1985.	In Schedule 3, paragraph 29.
1985 c. 68.	The Housing Act 1985.	In section 34, subsection (4B). In section 43, subsection (4B). Section 430.

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1986 c. 10.	The Local Government Act 1986.	Section 8.
1986 c. 31.	The Airports Act 1986.	In section 21, subsections (1) to (3) and in subsection (4) the words from the beginning to "1980; and". In section 22, subsections (1) to (4). Section 71.
1987 c. 6.	The Local Government Finance Act 1987.	In Schedule 1, paragraphs 7 and 8.
1987 c. 44.	The Local Government Act 1987.	Section 1.The Schedule.
1988 c. 4.	The Norfolk and Suffolk Broads Act 1988.	In section 14(14), the words from "section 34" to "1875 and". In Schedule 6, paragraph 21.
1988 c. 40.	The Education Reform Act 1988.	In section 177, subsection (4).In section 190, in subsection (5), paragraph (b) and the word "and" immediately preceding it. In section 201, insubsection (5), paragraph (b) and the word "and" immediately preceding it. In Schedule 12, paragraphs 47 and 48.
1988 c. 41.	The Local Government Finance Act 1988.	Sections 130 to 132.
1988 c. 50.	The Housing Act 1988.	Section 129(5)(a). In section 132, subsections (4) and (5).Section 136.

PART II

OTHER REPEALS

Commencement Information

I18 Sch. 12 Pt. II partly in force at 1. 4. 1991 see s. 195(2)(3) and S.I. 1991/344, art. 3(b), **Sch.**; Sch. 12 Pt. II in force for certain further purposes at 22.7.1996 by 1996/1857, art. 2

1897 c. cxxxiii.	The City of London Sewers Act 1897.	Section 17.
15 & 16 Geo 6 & 1 Eliz. 2. c. 54.	The Town Development Act 1952.	The whole Act.

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4 and 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	Section 22(4).
9 & 10 Eliz. 2. c. 33.	The Land Compensation Act 1961.	Section 10. Schedule 2.
10 & 11 Eliz. 2. c. 9.	The Local Government (Financial Provisions etc.) (Scotland) Act 1962.	In section 4, subsections (3) and (4). The first Schedule.
10 & 11 Eliz. 2. c. 38.	The Town and Country Planning Act 1962.	In Schedule 12, the entry relating to the Town Development Act 1952.
1968 c. 72.	The Town and Country Planning Act 1968.	Section 99.
1971 c. 78.	The Town and Country Planning Act 1971.	In Schedule 23, the entry relating to the Town Development Act 1952.
1972 c. 70.	The Local Government Act 1972.	In section 80, in subsection (1)(a), the words “joint board, joint authority or”. In section 101, in subsection (6), the words “or borrowing money”.In section 102(3), the words from “but at least”onwards. Section 110.In section 137, subsections (2A), (2B), (2C) (a) and (8).Insection 177, subsection (2A) and in subsection (3), the words “ (but not for the purposes of subsection (2A) above)”, and subsection (5). Section 177A. In section 178, in subsection (1), the words “and 177A”.Section 185. Section 265A(1)(g). Schedule 18.
1973 c. 26.	The Land Compensation Act 1973.	In section 29, in subsection (1), in paragraph (b), the words from “or the service” onwards and in subsection (7), in paragraph (c), the words “211, 264 or” and the words from “(undertaking” onwards. In section 37, in subsection (1), in paragraph (b), the words from “or the service”onwards and in subsection (2),

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		paragraph (b)(ii). Section 39(1)(d). In section 73, subsections (4) and (5).
1973 c. 37.	The Water Act 1973.	In Schedule 8, paragraphs 64 and 65.
1973 c. 65.	The Local Government (Scotland) Act 1973.	In section 31(1)(a)(ii), the words "or joint board". Sections 45 and 45A. Section 49(1A). Section 49A. In section 57(3), the words from "but at least" onwards. Section 110A(2). In section 111(1), paragraphs (a), (b) and (d).In section 161(6), the words from "but at least" onwards. In Schedule 10, paragraph 11. In Schedule 20, paragraph 10.
1974 c. 7.	The Local Government Act 1974.	In section 23, in subsections (4), (5) and (6) the word "Local" and in subsection (12), the words "(through the appropriate representative body designated under section 24 below)". Section 24. In section 25(4)(b), the words from "or section 110" to "authorities)". In section 34(1), the definition of "representative body".
1974 c. 44.	The Housing Act 1974.	In Schedule 13, paragraphs 38(1)(a) and 39(1)(a) and in paragraph 40(1) the words from "and at the end of that paragraph" onwards.
1975 c. 30.	The Local Government (Scotland) Act 1975.	In Schedule 6, in Part II, paragraph 46.
1975 c. 76.	The Local Land Charges Act 1975.	In section 9, in subsection (2), the words from the beginning to "in writing, and".
1976 c. 74.	The Race Relations Act 1976.	In section 47, in subsection (1)(c), the words following "field of housing", and in subsections (1)(d) and (3A), the word "rented".

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1979 c. 55.	The Justices of the Peace Act 1979.	In section 59, in subsection (1)(a) the words "or this Part".
1980 c. 20.	The Education Act 1980.	In Schedule 2, in paragraph 4, the words "173(4) and".
1980 c. 45.	The Water (Scotland) Act 1980.	Section 40(7).
1980 c. 65.	The Local Government, Planning and Land Act 1980.	Section 26(1) to (3).
1981 c. 64.	The New Towns Act 1981.	Part III. In section 72(1), paragraph (b) and the word "or" immediately preceding it. In Schedule 9, in sub-paragraph (2) of paragraph 3, the words from "but" onwards.
1981 c. 67.	The Acquisition of Land Act 1981.	In the Table in paragraph 1 of Schedule 4, the entry relating to the Town Development Act 1952.
1983 c. 52.	The Local Authorities (Expenditure Powers) Act 1983.	The whole Act.
1984 c. 11.	The Education (Grants and Awards) Act 1984.	In section 1, in subsection (6) the words "or section 2 below" and in subsection (7), the words "or section 2 below" and "in those sections". Section 2.
1985 c. 5.	The New Towns and Urban Development Corporations Act 1985.	Sections 3 and 4. In Schedule 2, paragraph 2. In Schedule 3, paragraph 7.
1985 c. 51.	The Local Government Act 1985.	Section 33.In Schedule 8, paragraphs 8 and 9(2).In Schedule 14, paragraphs 19 and 20.
1985 c. 68.	The Housing Act 1985.	Section 107. In section 191(3) the words "(repair notice in respect of unfit dwelling-house)". Section 192. In section 197, in subsection (1), paragraph (c) and the word "or" immediately preceding it. Sections 205 and 206.In section 208, the entries beginning "house" and "reasonable expense".

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Sections 209 to 238. Section 266.In section 268, in subsection (1), paragraph (a) and, in paragraph (b), the word “other”. In section 269, in subsection (3), paragraph (b) and the word “and” immediately preceding it; and subsections (4) and (5).In section 279(2) the words “section 266(parts of buildings and underground rooms)”.Sections 280 to 282. Section 289(6). In section 291(3) the words “Schedule 11 (rehabilitation orders)”. Section 299. In section 300, subsection (4). Sections 312 to 314. In section 315(1)(a) the words “or person having control”. Section 321. In section 322 the definition of “person having control”.In section 323, the entries beginning “the full standard”, “general improvement area”, “house”, “land liable to be cleared”, “person having control”, “slum clearance functions”, “slum clearance subsidy” and “year”. In section 346, in subsection (1) paragraph (b) and the word “and” immediately preceding it and in subsections (2) and (3) the words “or building” in each place where they occur. In section 349, in subsection (2)(b) the words “and buildings”. In section 350, in subsection (1) the words “or building” in each place where they occur. Section 352(6). Sections 366 and 367. In section 369, in subsection (3), paragraph (b), in paragraph (c) the words from “and in particular” onwards and paragraph (f); in subsection (5) the words from “as applied” to “a house”. Sections 370 and

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371. In section 372(1) the words from “to which” to “management code)”, the word “or” at the end of paragraph (a) and paragraph (b). Section 374. In section 375, in subsection (1) the word “366”. In section 376, in subsection (1) the word “366”, in subsection (3) the words “and to the period for compliance” and subsection (4). In section 377, in subsection (1) (a) the word “366”. In section 378, in subsection (2) (a) the word “366”. Section 379(1)(c), except the word “or”. In section 381, in subsection (4) the words “366, 370”. In section 392, in subsection (5)(a) the word “366”. Sections 417 to 420. In section 423(2), the words “any description of authority or”. In section 434, the entries beginning “general rate fund", “hostel", “houses or other property within the account”, “Housing Repairs Account”, “Housing RevenueAccount” and “loan charges”. In section 459, the entry beginning “Housing Revenue Account”. Sections 460 to 522. Sections 524 to 526. In section 567, in subsection (4), paragraph (c) except for the final “or”, in subsection (5), the words “regulations under subsection (4)(c) or” and subsection (6). In section 569, subsection (5). Sections 579 to 581. In section 582, the words from “section 192” to “beyond repair) or”. Sections 585 to 595. Section 598. In section 599, the words from “section 192” to “beyond repair)”. In section 602, the

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		definition of "house". In section 608, the words from "section 192" to "beyond repair) or". In section 624 the entry beginning "house". In Schedule 10, in paragraph 1,the words "section 214 or 215 (improvement notices)" and the word "366", in paragraph 2(2)(b) the word "366", paragraph 5 and in paragraph 6, in sub-paragraph (1) the words from "or by an order" to "such expenses" and the words "or of the order" and in sub-paragraphs (2) and (3) the words "or order"; and in paragraph 8(1) the word "366". Schedule 11. Schedule 12. In Schedule 13, in paragraph 21(4), the word "366" in paragraph (a), the word "or" at the end of paragraph (b), paragraph (c) and the words "or order". Schedule14. Schedules 22 to 24.
1985 c. 71.	The Housing(Consequential Provisions) Act 1985.	In Schedule 2, paragraph 4, in paragraph 24, sub-paragraphs (2)(a), (3)(a), (3)(c) and (4)(a) and paragraphs (c) to (f) of sub-paragraph (8) and paragraph 49.
1986 c. 1.	The Education (Amendment) Act 1986.	Sections 1 and 3.
1986 c. 10.	The Local Government Act 1986.	Section 11.
1986 c. 50.	The Social Security Act 1986.	In section 30(10), the words "rate fund".
1986 c. 63	The Housing and Planning Act 1986.	Section 1.Section 15. Section 20. Section 42(1)(d). Schedule 3. In Schedule 5, sub-paragraphs (1) and (5) of paragraph 10.
1987 c. 26.	The Housing (Scotland) Act 1987.	In section 61(10)(a)(v), the words "in the discretion of the landlord". Section 80.

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1987 c. 47.	The Abolition of Domestic Rates Etc. (Scotland) Act 1987.	In Schedule 1, paragraph 28(a)(ii) and (iii).
1988 c. 4.	The Norfolk and Suffolk Broads Act 1988.	In Schedule 6, in paragraph 10, sub-paragraphs (6) and (7).
1988 c. 9.	The Local Government Act 1988.	In section 25, in subsection (2), in paragraph (d) the words “an improvement notice” and in paragraph (e) the words “of an improvement notice under Part VII of the said Act of 1985 or” and the words “or the acceptance of an undertaking under the said Part VII”. In Schedule 3, paragraphs 7(2) and (3) and 15(a).
1988 c. 41.	The Local Government Finance Act 1988.	In section 33(4) the word “and” at the end of paragraph (c). In section 35, in subsections (3)(c) and (5)(c) the words “or under subsection (6) below”, and subsections (6) and (7). In section 44, in subsection (2), the words from “or” to the end and subsection (3). In section 46(2), the words from “or” to the end. In section 55(7)(b) the words “at a prescribed rate”. Section 77. In section 98(3)(d) the words “and calculated in a prescribed manner”. In section 99(2)(d) the words “at such rate as may be prescribed”. Section 119. Section 128(2). In section 140(2) the word “and” at the end of paragraph (e). In section 143(4) the words “57 or”. In Schedule 2, in paragraph 2(2)(m), the words from “and” to the end; paragraph 12. In Schedule 6, in paragraph 1 the words “, and parts of them,” and paragraph 4. In Schedule 7,

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		in paragraph 10(1) the words "because of a failure to fulfil paragraph 9(2) or (3) above". In Schedule 8, paragraphs 9(7), 11(3) and 12(6). In Schedule 9, in paragraph 2(2)(h), the words from "and" to the end; paragraph 6(2). In Schedule 12, paragraphs 16 and 37.
1988 c. 43.	The Housing (Scotland) Act 1988.	Section 2(6).
1988 c. 50.	The Housing Act 1988.	In section 103, in subsection (4), at the end of paragraph (d) the word "and". Section 129(5)(b).Section 130(2) .Section 131.
1989 c. 15.	The Water Act 1989.	In Schedule 25, paragraph 19 and in paragraph 80(2), the words from "to", in the first place where it occurs, to "his power", in the first place where they occur.

1 The repeal in the City of London Sewers Act 1897 shall have effect on the commencement day, within the meaning of section 6 of this Act.

2 The repeals in Parts XIII and XIV of the Housing Act 1985, section 30 of the Social Security Act 1986 and section 129 of the Housing Act 1988 shall have effect for years beginning on or after 1st April 1990.

3 The repeals in Schedule 3 to the Local Government Act 1988 shall have effect in relation to reports made after the coming into force of, in the case of paragraph 7(2) and (3), section 26 and, in the case of paragraph 15(a),section 27 of this Act.

4 The repeals in the Local Government Finance Act 1988 shall have effect in accordance with Schedule 5 to this Act.

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