



Local Government Act 1992

1992 CHAPTER 19

PART I

CITIZEN'S CHARTER PROVISIONS

Performance standards of local authorities etc.

1 Publication of information as to standards of performance

- (1) The Audit Commission and the Scottish Accounts Commission shall each give such directions as it thinks fit for requiring relevant bodies to publish such information relating to their activities in any financial year as will, in that Commission's opinion, facilitate the making of appropriate comparisons (by reference to the criteria of cost, economy, efficiency and effectiveness) between—
 - (a) the standards of performance achieved by different relevant bodies in that financial year; and
 - (b) the standards of performance achieved by such bodies in different financial years.
- (2) Where a relevant body are required by a direction under this section to publish information in relation to any financial year, it shall be the duty of that body—
 - (a) to make such arrangements for collecting and recording the information as secure that the information is available for publication and, so far as practicable, that everything published in pursuance of the direction is accurate and complete;
 - (b) within the period of nine months beginning with the end of that financial year, to publish the information, in accordance with the direction, in a newspaper circulating in the area of that body; and
 - (c) to keep a document containing any information published in pursuance of the direction available for inspection by interested persons.
- (3) The Secretary of State may by order made by statutory instrument vary the period for the time being specified in paragraph (b) of subsection (2) above so as to fix the latest

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time for the publication of information in accordance with that paragraph at any such time, within the period of nine months after the end of the financial year in question, as may be specified in the order; 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.

- (4) An interested person shall be entitled—
 - (a) at all reasonable times and without payment, to inspect and make copies of the whole or any part of a document kept available for inspection under subsection (2)(c) above; and
 - (b) to require copies of the whole or a part of any such document to be delivered to him on payment of a reasonable sum for each copy.
- (5) Any person having custody of any document kept available for inspection under subsection (2)(c) above who—
 - (a) obstructs a person in the exercise of his rights under subsection (4) above; or
 - (b) refuses to comply with a requirement under subsection (4)(b) above,
 shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (6) References in this section to an interested person, in relation to any document which is required to be kept available by a relevant body in England and Wales, are references to any local government elector (within the meaning of the 1972 Act) for the area of that body.
- (7) References in this section and sections 2 and 3 below to a relevant body are references—
 - (a) in relation to England and Wales, to any body with which the Audit Commission is concerned, other than one falling within subsection (8) below; and
 - (b) in relation to Scotland, to any local authority, joint board or joint committee, within the meaning of the 1973 Act.
- (8) Subject to section 4 below, the bodies with which the Audit Commission is concerned which shall not be relevant bodies for the purposes of this section and sections 2 to 3 below are—
 - (a) parish and community councils and any parish meeting of a parish not having a separate parish council;
 - (b) charter trustees constituted under section 246 of the 1972 Act;
 - (c) health service bodies within the meaning of Part III of the 1982 Act;
 - (d) port health authorities;
 - (e) licensing planning committees;
 - (f) internal drainage boards;
 - (g) probation committees; and
 - (h) Passenger Transport Executives.

2 Directions under s. 1

- (1) A direction under section 1 above requiring the publication of information shall—
 - (a) identify the financial year or years in relation to which the information is to be published;

- (b) specify or describe the activities to which the information is to relate; and
 - (c) make provision as to the matters to be contained in the information and as to the form in which it is to be published.
- (2) A direction under section 1 above—
 - (a) may be given so as to apply either to all the relevant bodies with which the Commission giving the direction is concerned or to all such bodies as are of a description specified in the direction; and
 - (b) may be varied or revoked by any subsequent direction under that section.
- (3) Before giving a direction under section 1 above which imposes a new requirement on any relevant body as to the publication of any information the Audit Commission or Scottish Accounts Commission shall consult such associations of relevant bodies and such other persons as it thinks fit.
- (4) A direction under section 1 above imposing a new requirement on any relevant body as to the publication of any information shall not be given any later than the 31st December in the financial year which precedes that in relation to which the information is to be published.
- (5) Where the Audit Commission or the Scottish Accounts Commission gives a direction under section 1 above, it shall—
 - (a) publish the direction in such manner as it considers appropriate for bringing it to the attention of members of the public; and
 - (b) send a copy of the direction to every relevant body on whom duties are imposed by virtue of the direction.
- (6) References in this section to the imposition of a new requirement on a relevant body as to the publication of information are references to—
 - (a) the imposition of any requirement by the first direction under section 1 above to apply to that body; or
 - (b) any subsequent extension of, or addition to, either—
 - (i) the matters to be contained in the information which that body are required to publish in relation to any financial year in pursuance of directions under section 1 above; or
 - (ii) the activities to which any such information is to relate.

3 Functions of auditor and studies by the Commissions

- (1) In section 15(1) of the 1982 Act (duties of auditors), at the end of paragraph (c) there shall be inserted “and
 - (d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that that body have made such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.”
- (2) In section 99 of the 1973 Act (which makes corresponding provision for Scotland), at the end of paragraph (c) there shall be inserted “and
 - (d) in a case where that body are required to publish information in pursuance of a direction under section 1 of the Local Government Act 1992 (publication of performance information), that body have made

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such arrangements for collecting and recording the information, and for publishing it, as are required for the performance of their duties under that section.”

- (3) The comparative and other studies which the Audit Commission is required to undertake or promote under section 26(1) of the 1982 Act, and those which the Scottish Accounts Commission is required to undertake or promote under section 97A(1) of the 1973 Act, shall include, in particular—

- (a) studies designed to enable the Audit Commission or, as the case may be, the Scottish Accounts Commission to determine what directions it should give under section 1 above; and
- (b) studies of information published in pursuance of directions under section 1 above which are designed to enable the Commission in question to determine, in relation to each financial year, what comparative information to publish itself about the standards of performance achieved by relevant bodies;

but neither Commission shall be required by section 26(4) of the 1982 Act or section 97A(3) of the 1973 Act to consult any person before undertaking or promoting a study falling within paragraph (a) or (b) above.

4 Application to parish and community councils and charter trustees

- (1) The Secretary of State may by order provide for sections 1 to 3 above to have effect as if—
- (a) parish and community councils in England and Wales; and
 - (b) charter trustees constituted under section 246 of the 1972 Act,
- were relevant bodies for the purposes of those sections.
- (2) The power to make an order under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) The power to make an order under this section shall include power—
- (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
 - (b) to make different provision for different cases, including different provision for different localities and for different bodies.

Auditors' reports and recommendations

5 Duty to consider auditor's report or recommendation

- (1) Where, at any time after the coming into force of this section, a body to which this section applies or, in the case of a parish meeting, their chairman is sent, in connection with the audit of that body's accounts—
- (a) a report under section 15(3) of the 1982 Act (an auditor's report) or, in Scotland, a copy of a report from the Controller of Audit under section 102(1) or (2) of the 1973 Act; or
 - (b) such a written recommendation to that body by an auditor as is stated, in the document containing the recommendation, to be one which, in the auditor's opinion, should be considered under this section or, in Scotland, a

recommendation to that body from the Scottish Accounts Commission under section 103(1) of the 1973 Act,

it shall be the duty of the body concerned to consider the report or recommendation in accordance with the following provisions of this section and section 6 below.

- (2) The duty under this section of any body to consider a report or recommendation is a duty-
- (a) to consider it at a meeting held before the end of the period of four months beginning with the day on which the report or recommendation was sent to that body or, as the case may be, to their chairman; and
 - (b) to decide at that meeting—
 - (i) whether the report requires that body to take any action or whether the recommendation is to be accepted; and
 - (ii) what, if any, action to take in response to the report or recommendation.
- (3) If—
- (a) an auditor is satisfied, in the case of any body in England and Wales to which, or to whose chairman, any report or recommendation has been sent, that it is reasonable to allow more time for the body to comply with their duties under subsection (2) above in relation to that report or recommendation;
 - (b) the Controller of Audit is so satisfied in the case of any body to which a copy of a report under section 102(1) or (2) of the 1973 Act has been sent; or
 - (c) the Scottish Accounts Commission is so satisfied in the case of any body to which a recommendation under section 103(1) of the 1973 Act has been sent,
- the auditor, Controller of Audit or, as the case may be, Scottish Accounts Commission may, in relation to that report or recommendation, extend the period of four months mentioned in subsection (2)(a) above or (where it has already been extended under this subsection on one or more previous occasions) further extend it.
- (4) Nothing in section 101 of the 1972 Act (delegation of functions) shall apply to any duty imposed by this section on a body to which this section applies; and the duty imposed by this section on any body in Scotland shall be discharged only by that body.
- (5) In subsection (3) of section 18 of the 1982 Act (which imposes an obligation to take an auditor's report into consideration as soon as practicable after it is received), for the words from "as soon as" to the end of the subsection there shall be substituted the words "in accordance with sections 5 and 6 of the Local Government Act 1992, or in the case of a body to which that section 5 does not apply, as soon as practicable after they receive the report."
- (6) This section applies—
- (a) to every body with which the Audit Commission is concerned, other than one falling within any of paragraphs (b) to (h) of section 1(8) above; and
 - (b) to every local authority, joint board or joint committee, within the meaning of the 1973 Act.
- (7) This section shall be without prejudice to any duties (so far as they relate to the subject-matter of a report or recommendation sent to a body to which this section applies) which are imposed by or under Part III of the 1982 Act or Part VII of the 1973 Act (accounts and audit in England and Wales and in Scotland), sections 114 to 116 of the Local Government Finance Act 1988 (functions and reports of finance officers),

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section 5 of the Local Government and Housing Act 1989 (functions of monitoring officers) or any other enactment.

6 Publicity requirements for meetings under s. 5

- (1) A meeting shall not be held for the purposes of section 5 above unless, at least seven clear days before the meeting, there has been published, in a newspaper circulating in the area of the body concerned, a notice which—
 - (a) states the time and place of the meeting;
 - (b) indicates that the meeting is to be held in order for consideration to be given to a report by an auditor or the Controller of Audit or, as the case may be, to a recommendation of an auditor or of the Scottish Accounts Commission; and
 - (c) describes the subject-matter of that report or recommendation.
- (2) It shall be the duty of a body who have held a meeting for the purposes of section 5 above to ensure—
 - (a) that the relevant authority is notified, as soon as practicable after the end of the meeting, of the decisions made at that meeting in pursuance of subsection (2) (b) of that section; and
 - (b) that a notice containing such a summary of those decisions as has been approved by the relevant authority is published, as soon as practicable after the end of the meeting, in a newspaper circulating in that body's area.
- (3) A notice published for the purposes of subsection (2)(b) above in relation to any meeting—
 - (a) shall not be required to summarise any decision made while the public were excluded from the meeting—
 - (i) under section 100A(2) of the 1972 Act or section 50A(2) of the 1973 Act (confidential matters);
 - (ii) in pursuance of a resolution under section 100A(4) of the 1972 Act or section 50A(4) of the 1973 Act (exempt information); or
 - (iii) in pursuance of a resolution under section 1(2) of the Public Bodies (Admission to Meetings) Act 1960 (protection of public interest);
 but
 - (b) in a case where sections 100C and 100D of the 1972 Act or sections 50C and 50D of the 1973 Act (availability for inspection after meetings of minutes, background papers and other documents) apply in relation to the meeting, shall indicate the documents in relation to that meeting which are open for inspection in accordance with those sections.
- (4) In subsection (2) above “the relevant authority”—
 - (a) in relation to a meeting of any body with which the Audit Commission is concerned, means the auditor of that body's accounts;
 - (b) in relation to a meeting for the consideration of a report of the Controller of Audit, means the Controller of Audit; and
 - (c) in relation to a meeting for the consideration of a recommendation from the Scottish Accounts Commission, means that Commission.
- (5) This section, so far as it has effect in relation to a meeting under section 5 above, shall so have effect without prejudice to, and in addition to, any provision made in relation to meetings of the body in question by section 18(5) of the 1982 Act (information in

advance of meetings to consider auditor's report) or by or under the 1972 Act, the 1973 Act, the Public Bodies (Admission to Meetings) Act 1960 or any other enactment.

Publication of information by the Audit Commission

7 Publication of information by the Audit Commission

- (1) Subject to the following provisions of this section, the Audit Commission shall have power to publish such information as it thinks fit with respect to any of the matters mentioned in subsection (2) below.
- (2) The matters referred to in subsection (1) above are—
 - (a) a contravention by a body with which that Commission is concerned of any obligation imposed on that body by virtue of subsection (2) of section 1 above;
 - (b) the making by an auditor of a report under section 15(3) of the 1982 Act to any such body, the subject-matter of any such report and the decision made and other action taken by any such body in response to the receipt of any such report or to anything contained in it;
 - (c) a contravention by any such body of any regulations made under section 23 of the 1982 Act (regulations with respect to accounts).
- (3) The information that may be published by virtue of subsection (2)(b) above shall not include—
 - (a) information with respect to a report made to a health service body, within the meaning of Part III of the 1982 Act, or to any decision or other action by such a body; or
 - (b) information excluded under subsection (3)(a) of section 6 above from any notice published for the purposes of subsection (2)(b) of that section.
- (4) The information that may be published under this section shall include information with respect to a contravention which occurred, to a report which was made and to any decision or action which was made or taken before the coming into force of this section.
- (5) Before publishing any information under this section relating to—
 - (a) the conduct or decisions of any body with which it is concerned; or
 - (b) a report made to any such body,the Audit Commission shall notify that body of its proposal to publish the information.
- (6) Information published under this section shall be published in such manner as the Audit Commission considers appropriate for bringing the information to the attention of those members of the public who may be interested.

Competition

8 Application of competitive tendering to professional services etc

- (1) The Secretary of State may by order make such provision in relation to proposals for the carrying out of work to which this section applies as he considers appropriate for facilitating or requiring separate procedures to be followed for—

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- (a) the evaluation for the purposes of Part I of the 1988 Act of the quality of the services which persons willing to carry out the work are able to provide and of their fitness to provide them; and
 - (b) the evaluation for those purposes of the financial terms on which such persons would carry out the work.
- (2) This section applies to any work which—
 - (a) by virtue of an order under section 2(3) of the 1988 Act, falls within a defined activity for the purposes of Part I of that Act; and
 - (b) consists in, or involves, the provision of professional advice or of other professional services or the application of any financial or technical expertise.
- (3) Before making an order under this section the Secretary of State shall consult such representatives of local government as appear to him to be appropriate.
- (4) The power to make an order under this section shall be exercisable by statutory instrument; and no such order shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) The power to make an order under this section shall include power—
 - (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
 - (b) to make different provision for different cases, including different provision for different localities and for different authorities;
 and the power conferred by virtue of paragraph (a) above shall include power, for the purposes of, or in connection with, any separate procedures for which an order under this section provides, to modify any of the provisions of Part I of the 1988 Act.
- (6) The powers conferred by this section shall be without prejudice to the power conferred by section 15(8)(a) of the 1988 Act (power to make incidental modifications in connection with an order extending the defined activities).

9 Power to define conduct as competitive or anti-competitive

- (1) The Secretary of State may by regulations make provision, for the purposes of one or more of the conditions mentioned in subsection (2) below, for conduct described in the regulations to be regarded, in accordance with the regulations and in such circumstances as may be so described—
 - (a) as conduct which has the effect of restricting, preventing or distorting competition or is likely to have that effect; or
 - (b) as conduct which does not have that effect and is not likely to have that effect.
- (2) The conditions referred to in subsection (1) above are—
 - (a) the condition specified in section 7(1A) of the 1980 Act (competition condition in the case of certain works contracts);
 - (b) the condition specified in section 9(4)(aaaa) of the 1980 Act (competition condition applying in the case of prescribed construction or maintenance work);
 - (c) the condition set out in section 4(5) of the 1988 Act (competition condition in the case of works contracts relating to work falling within a defined activity);
 - (d) the condition set out in section 7(7) of the 1988 Act (competition condition in the case of functional work falling within such an activity).

- (3) Without prejudice to the generality of subsection (1) above or to any power conferred by section 8 of the 1988 Act (regulations with respect to fulfilment of conditions), regulations under this section may—
- (a) prescribe the matters which are to be taken into account, or disregarded, in the course of any evaluation made for the purpose of deciding who should undertake or carry out particular work;
 - (b) prescribe the manner in which, or extent to which, any matter described in the regulations is to be so taken into account or disregarded;
 - (c) prescribe maximum and minimum periods for the periods which are required, by virtue of paragraphs (b) and (d) of subsection (2) of section 7 of the 1988 Act, to be specified in a notice published for the purposes of subsection (1) of that section (periods for inspection of specification and for notifying an authority of a wish to tender);
 - (d) prescribe a maximum and a minimum period for the period which is to elapse, in a case where a notice has been so published, between—
 - (i) the announcement of the decision as to who should carry out the work in question; and
 - (ii) the beginning of the period during which the work is to be carried out;
 - (e) make provision for the issue by the Secretary of State of guidance as to how conduct restricting, distorting or preventing competition is to be avoided in the doing of anything under or for the purposes of Part III of the 1980 Act or Part I of the 1988 Act; and
 - (f) require the extent (if any) to which there has been a contravention of guidance issued by the Secretary of State under the regulations to be taken into account in any determination of whether or not a condition mentioned in subsection (2) above has been fulfilled.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and that power shall include power—
- (a) to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient; and
 - (b) to make different provision for different cases, including different provision for different localities and for different bodies.

10 Publicity for tender specifications

- (1) This section applies where a relevant authority make a decision in consequence of which any work is required to be carried out (whether by the authority themselves or by some other person) in accordance with a specification which has been either—
- (a) prepared for the purposes of an invitation issued for the purposes of section 9(4)(a) of the 1980 Act (competitive tendering for construction and maintenance work); or
 - (b) made available for inspection in accordance with a notice published for the purposes of section 7(1) of the 1988 Act (competitive tendering for other functional work).
- (2) Where this section applies, it shall be the duty of the authority making the decision—
- (a) to make arrangements for—
 - (i) a copy of the specification; and

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- (ii) a document containing a summary of the main requirements of the specification,
to be kept available, throughout the period during which the work in question is to be carried out, for inspection by members of the public, at all reasonable hours, at the principal office of the authority; and
- (b) to give such publicity to those arrangements as they think sufficient for drawing the attention of members of the public who may be interested to the fact that the specification and that document are so available.
- (3) In this section “relevant authority” means any body which is a local authority or development body within the meaning of Part III of the 1980 Act or a defined authority within the meaning of Part I of the 1988 Act.

11 Amendments of competition provisions

Part III of the 1980 Act and Part I of the 1988 Act (competition provisions) shall have effect with the amendments specified in Schedule 1 to this Act.

PART II

LOCAL GOVERNMENT CHANGES FOR ENGLAND

The Local Government Commission

12 The Local Government Commission for England

- (1) There shall be a body corporate to be known as the Local Government Commission for England (in this Part referred to as “the Local Government Commission”) for the purpose of carrying out the functions assigned to it by section 13 below.
- (2) Schedule 2 to this Act shall have effect with respect to the Local Government Commission.

Functions of the Local Government Commission

13 Duty to conduct reviews and make recommendations

- (1) If the Secretary of State so directs, the Local Government Commission shall, in accordance with this Part and any directions given under it—
 - (a) conduct a review of such areas in England as are specified in the direction or are of a description so specified; and
 - (b) recommend to the Secretary of State as respects each of those areas either—
 - (i) that he should make such structural, boundary or electoral changes as are specified in the recommendations; or
 - (ii) that he should make no such changes.
- (2) It shall also be the duty of the Local Government Commission—
 - (a) independently of any reviews under subsection (1) above, to conduct periodic reviews of every principal area in England for the purpose of determining

- whether recommendations should be made for electoral changes in that area;
and
- (b) as respects any area reviewed, to recommend to the Secretary of State either—
- (i) that he should make such electoral changes as are specified in the recommendations; or
 - (ii) that he should make no such changes.
- (3) So far as reasonably practicable, the first periodic review of any area under subsection (2) above shall be conducted not less than ten or more than fifteen years after the report of the Local Government Boundary Commission for England on a review under Schedule 9 to the 1972 Act (initial review of counties) was submitted to the Secretary of State in relation to the county in which that area, or the greater part of it, was comprised.
- (4) So far as reasonably practicable, subsequent reviews under subsection (2) above shall be conducted within the period of not less than ten or more than fifteen years from the submission to the Secretary of State of the last report on a review under that subsection of any area comprising the whole or a substantial part of that area.
- (5) Any structural, boundary or electoral changes recommended to the Secretary of State under this section shall be such as appear to the Local Government Commission desirable having regard to the need—
- (a) to reflect the identities and interests of local communities; and
 - (b) to secure effective and convenient local government.
- (6) The Secretary of State may give directions as to the exercise by the Local Government Commission of any functions under this section; and such directions may require that Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.

14 Changes that may be recommended

- (1) For the purposes of this Part—
- (a) a structural change is the replacement, in any non-metropolitan area, of the two principal tiers of local government with a single tier;
 - (b) a boundary change is any of the changes specified in subsection (3) below, whether made for the purpose of facilitating a structural change or independently of any such change; and
 - (c) an electoral change is a change of electoral arrangements for any local government area, whether made in consequence of any structural or boundary change or independently of any such change;
- and recommendations by the Local Government Commission for any structural or boundary changes shall include such recommendations as to the matters mentioned in subsection (5) below as the Commission thinks appropriate in connection with the recommended changes.
- (2) In subsection (1)(a) above—
- (a) the reference to a non-metropolitan area is a reference to any area which is or, as a result of any recommended boundary change would be, a non-metropolitan county or a non-metropolitan district; and
 - (b) the reference to the replacement, in any such area, of the two principal tiers of local government with a single tier is a reference to either—

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- (i) the transfer to a council for a county consisting of that area of the functions in relation to that area of district councils; or
 - (ii) the transfer to a district council for that area of the functions in relation to that area of a county council.
- (3) The changes mentioned in subsection (1)(b) above are—
 - (a) the alteration of a local government area, including the alteration of so much of the boundary of any such area as lies below the high-water mark of medium tides, but excluding the extension of any local government area into Wales;
 - (b) the constitution of a new local government area of any description outside Greater London by the amalgamation of two or more such areas of the like description or by the aggregation of parts of such areas of the like description or by the separation of part of any local government area;
 - (c) the abolition of a principal area of any description outside Greater London, or of a metropolitan county, and its distribution among other areas of the like description;
 - (d) the constitution of a new London borough by the amalgamation of two or more London boroughs or by the aggregation of parts of London boroughs or by the separation of part of a London borough;
 - (e) the abolition of a London borough and the distribution of its area among other London boroughs;
 - (f) the constitution of a new parish by—
 - (i) the establishment as a parish of any area which is not a parish or part of one; or
 - (ii) the aggregation of the whole or any part of any such area with one or more parishes or parts of parishes; and
 - (g) the abolition of a parish, with or without the distribution of its area among other parishes.
- (4) In subsection (1)(c) above “electoral arrangements” means—
 - (a) in relation to a principal area—
 - (i) the number of councillors of the council for that area;
 - (ii) the number and boundaries of the electoral areas into which that area is for the time being divided for the purposes of the election of councillors;
 - (iii) the number of councillors to be elected for any electoral area in that principal area and the years in which they are to be so elected; and
 - (iv) the name of any electoral area;
 - (b) in relation to a parish council—
 - (i) the number of councillors;
 - (ii) the question whether or not the parish or (in the case of a common parish council) any of the parishes should be divided into wards for the purposes of the election of councillors;
 - (iii) the number and boundaries of any such wards;
 - (iv) the number of councillors to be elected for any such ward or, in the case of a common parish, for each parish; and
 - (v) the name of any such ward.
- (5) The matters mentioned in subsection (1) above are—

- (a) the abolition of any local authority whose functions would all vest in another as a result of any recommended structural change or whose area would be abolished or otherwise substantially affected by any recommended boundary change;
 - (b) the establishment, as a county or district council, of a new authority for any area which would result from any recommended boundary change involving the amalgamation or aggregation of areas or parts of areas or involving other substantial alterations of areas;
 - (c) the extent to which a structural or boundary change requires (whether because functions become vested in an authority for a smaller area or for any other reason connected with the change) that joint arrangements should be made in relation to functions affected by the change; and
 - (d) whether, in connection with any recommended structural change, any authority should, for the purpose of the vesting of functions under Part II of the Town and Country Planning Act 1990 (development plans) in that authority—
 - (i) be treated as an authority to whose area Chapter I of that Part (unitary plans) applies, instead of Chapter II (structure and local plans); or
 - (ii) be authorised to include any of the policies mentioned in section 37 or 38 of that Act (mineral and waste plans) in their local plan.
- (6) For the purposes of this Part the establishment of a new authority as the county or district council for any area shall be taken to include provision, subject to any necessary electoral changes—
- (a) for an existing county council to become the district council for any area comprising a part of a county or for any two or more such areas; or
 - (b) for an existing district council to become the county council for an area comprising any one or more districts.
- (7) For the purposes of this section—
- (a) a metropolitan district and a non-metropolitan district shall be regarded as local government areas of a like description and so shall a metropolitan county and a non-metropolitan county; and
 - (b) any county or district resulting from the amalgamation or aggregation of the whole or any part of a metropolitan area with the whole or any part of a non-metropolitan area shall be regarded as a non-metropolitan county or, as the case may be, district.

15 Procedure on a review

- (1) As soon as reasonably practicable after being directed to conduct a review, the Local Government Commission shall take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—
- (a) the direction requiring that review to be conducted;
 - (b) any other directions under this Part which are relevant to the review; and
 - (c) the period within which representations with respect to the subject-matter of the review may be made.
- (2) As soon as reasonably practicable after deciding to conduct a periodic review of any area under section 13(2) above, the Local Government Commission shall take such steps as it considers sufficient to secure that persons who may be interested in the review are informed of—

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- (a) the fact that the Commission is to conduct a periodic review of that area;
 - (b) any directions under this Part which are relevant to the review; and
 - (c) the period within which representations with respect to the subject-matter of the review may be made.
- (3) In conducting a review, the Local Government Commission shall—
 - (a) take into consideration any representations made to it within the period mentioned in subsection (1)(c) or (2)(c) above;
 - (b) prepare draft recommendations and take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which representations with respect to them may be made;
 - (c) deposit copies of the draft recommendations at the principal office of any principal council appearing to that Commission to be likely to be affected by them; and
 - (d) take into consideration any representations made to that Commission within that period.
- (4) As soon as the Local Government Commission is in a position to submit to the Secretary of State a report on a review, it shall—
 - (a) submit such a report to him together with its recommendations;
 - (b) take such steps as it considers sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which they may be inspected; and
 - (c) deposit copies of the recommendations at the principal office of any principal council appearing to that Commission to be likely to be affected by them.
- (5) Copies of any draft recommendations deposited at the principal office of a principal council under subsection (3)(c) above, and of any recommendations deposited at any such office under subsection (4)(c) above, shall be kept available for inspection at that office throughout the period within which representations with respect to them may be made or, as the case may be, within which they may be inspected.
- (6) Where the report on a review is submitted to the Secretary of State under subsection (4) above, he may, if he thinks fit, direct the Local Government Commission to conduct a further review of any area to which the report relates and to make revised recommendations as respects that area; and this section shall apply in relation to the further review with such modifications as may be specified in the direction.
- (7) The Secretary of State may give directions as to the exercise by the Local Government Commission of any functions under this section; and such directions may require that Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.
- (8) This section shall have effect as if the Common Council of the City of London were a principal council and the City of London included the Inner Temple and the Middle Temple.

16 Consultation with the Audit Commission

- (1) The Audit Commission shall, if so required by the Local Government Commission, provide it with a written opinion as to the likely impact of any proposed structural changes on economy, efficiency and effectiveness in the provision of services provided

by such bodies with which the Audit Commission is concerned as are likely to be affected by the changes.

- (2) The Audit Commission may require any body with which it is concerned to supply the Audit Commission with all such information as it may reasonably require for the provision of an opinion under this section.
- (3) The Audit Commission shall charge the Local Government Commission such fees for opinions provided under this section as will cover the full cost of providing them.

Implementation of recommendations

17 Implementation of recommendations by order

- (1) Where the Local Government Commission submit to the Secretary of State a report on a review together with its recommendations, he may, if he thinks fit, by order give effect to all or any of the recommendations, with or without modifications.
- (2) No order under this section shall be made before the end of the period of six weeks beginning with the submission of the report; and before making such an order, the Secretary of State may by a direction require the Local Government Commission to supply him with such additional information as may be described in the direction.
- (3) An order under this section may, in particular, include provision which, for the purpose of giving effect (with or without modifications) to recommendations of the Local Government Commission, makes provision with respect to—
 - (a) the area of any authority and the name of any such area;
 - (b) the name of any authority;
 - (c) the establishment of any new authority for any county or district or the winding up and dissolution of any existing authority;
 - (d) the total number of councillors of any authority, the apportionment of councillors among electoral areas, the assignment of existing councillors to new or altered electoral areas, and the first election of councillors for any new or altered electoral area;
 - (e) without prejudice to paragraph (d) above, the holding of a fresh election of councillors for all electoral areas in a local government area where substantial changes have been made to some of those areas, or the order of retirement of councillors for any electoral areas in the local government area in question;
 - (f) in the case of an order relating to the system of election of district councillors, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the district;
 - (g) the constitution and election of public bodies in any area affected by the order;
 - (h) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by the order.
- (4) The power to make an order under this section shall include power to make any such provision in relation to the other provisions of that order, or to the provisions of any previous order under this section, as is equivalent to that which may be contained in regulations under section 19 below or in an agreement under section 20 below.
- (5) Without prejudice to the preceding provisions of this section, where charter trustees have been constituted under section 246 of the 1972 Act for an area which is altered by

an order under this section and subsection (8) of that section (incorporation of whole or part of trustees' area in parish) does not apply, the order may make such provision with respect to the charter trustees as appears to the Secretary of State to be appropriate.

18 Consequences of structural changes etc

- (1) Where an order under section 17 above gives effect to any structural change by which the functions of district councils in relation to any area are transferred to a council for a county consisting of that area, then the county council—
 - (a) shall, for any financial year beginning at the same time as or after the coming into force of the change, be a billing authority for the purposes of Part I of the Local Government Finance Act 1992 in relation to their area; and
 - (b) shall not, for any such year, be a major precepting authority for those purposes.
- (2) An order under section 17 above which contains provision for a structural change—
 - (a) shall include provision for any district the council for which are, under the order, to have the functions of a county council in relation to that district to be treated as a county for the purposes of the Police Act 1964; and
 - (b) may provide, for the purposes of the approval or making of an amalgamation scheme under Part I of that Act, that the area of a district in relation to which the council of any county affected by the order are to have any functions is to be treated as an area that would become a police area by virtue of the order.
- (3) An order under section 17 above which contains provision for a structural change—
 - (a) shall provide that, subject to any combination scheme under the Fire Services Act 1947, any district the council for which are, under the order, to have the functions of a county council in relation to that district is to become the area of a fire authority for the purposes of that Act; and
 - (b) may provide, for the purposes of the making of any combination scheme under that Act, that the area of any district in relation to which the council of any county affected by the order are to have any functions is to be treated as an area that would become the area of a fire authority by virtue of the order.
- (4) It shall be the duty of the Secretary of State to have regard to any recommendations made by the Local Government Commission by virtue of section 14(5)(c) above in determining whether and how to exercise—
 - (a) his powers under Part I of the Police Act 1964 to approve or make an amalgamation scheme; or
 - (b) his powers under the Fire Services Act 1947 to approve or make a combination scheme,in relation to any areas which have been or are to be affected by any order under section 17 above, or in relation to any such area and other areas.
- (5) This section shall be without prejudice to the power to make any provision by order under this Part or to any power to make incidental, consequential, transitional or supplementary provision in connection with the provisions of any such order.

19 Regulations for supplementing orders

- (1) The Secretary of State may by regulations of general application make such incidental, consequential, transitional or supplementary provision as he thinks necessary or

expedient for the purposes or in consequence of any orders under section 17 above, or for giving full effect to orders under that section.

(2) Regulations under this section may, in particular, include provision of general application with respect to—

- (a) the transfer of functions, property, rights or liabilities from a local authority for any area to another local authority whose area consists of or includes the whole or any part of that area;
- (b) the transfer of property, rights or liabilities, and of related functions, from an authority which ceases to exist to a residuary body established under section 22 below;
- (c) the management or custody of transferred property (whether real or personal);
- (d) the functions or areas of jurisdiction of any public body or of any of the following persons—

- (i) any justice of the peace, stipendiary magistrate, coroner or keeper of the rolls for a commission area (within the meaning of the Justices of the Peace Act 1979);

- (ii) any lord-lieutenant, lieutenant or high sheriff;

- (iii) any other officers (including police officers) within the area of any local authority affected by any such order,

and the costs and expenses of such public bodies and persons.

(3) In their application in relation to any order under section 17 above, regulations under this section shall have effect subject to any provision made under that section.

(4) Any regulations under section 67 of the 1972 Act (regulations in connection with implementation of proposals under Part IV of that Act) which are in force at the commencement of this section shall have effect, without prejudice to their operation in relation to any order made under that Part after the commencement of this section (whether by virtue of section 24(3) below or otherwise) and subject to any regulations under this section, as if orders under section 17 above were orders under that Part.

20 Agreements as to incidental matters

(1) Any public bodies affected by an order under this Part may from time to time make agreements with respect to any property, income, rights, liabilities and expenses (so far as affected by the order) of, and any financial relations between, the parties to the agreement.

(2) Such an agreement may provide—

- (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
- (b) for the making of payments by either party to the agreement in respect of property, rights and liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and
- (c) for the making of any such payment either by way of a capital sum or of a terminable annuity.

(3) In default of agreement as to any disputed matter, the matter shall be referred to the arbitration of a single arbitrator—

- (a) agreed on by the parties; or
- (b) in default of agreement, appointed by the Secretary of State;

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and the award of the arbitrator may make any provision that might be contained in an agreement under this section.

- (4) In subsection (3) above “disputed matter” means any matter which—
- (a) might be the subject of provision contained in an agreement under this section; and
 - (b) is the subject of such a dispute between two or more public bodies as is not resolved by or under provision contained in any order or regulations under this Part.

21 Joint authorities

- (1) This section applies to any functions which are to be or have become functions of any authority as a result of any structural or boundary change if the Secretary of State considers, having regard to any recommendations to that effect made by the Local Government Commission by virtue of section 14(5)(c) above, that they should be carried out in accordance with joint arrangements.
- (2) Where it appears to the Secretary of State that joint arrangements, or satisfactory joint arrangements, with respect to any functions to which this section applies—
- (a) have not been made by the authorities in whom those functions are to be or have been vested;
 - (b) will not be in force when the structural or boundary change in question comes into force; or
 - (c) have ceased or will cease to be in operation,
- he may, for the areas of those authorities, by order establish a joint authority, which may be a body corporate, to carry out those functions, from a date specified in the order until such joint arrangements as appear to him to be satisfactory are brought into force.
- (3) An order under this section may make provision for enabling the Secretary of State to require the joint authority to submit to him a scheme for the winding up of the joint authority and for the transfer—
- (a) to any of the authorities for whose areas the joint authority is established; or
 - (b) to any body established in pursuance of any joint arrangements made by or in relation to those authorities,
- of any of the joint authority’s property, rights and liabilities or of any functions which it carries out.
- (4) The Secretary of State may by order provide—
- (a) for excluding any functions, or any functions in any area, from those falling to be carried out by a joint authority; and
 - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (3) above and for the dissolution of a joint authority.
- (5) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient, including provision for the transfer of property, rights and liabilities.

22 Residuary bodies

- (1) The Secretary of State may by order establish one or more bodies (“residuary bodies”), which shall be bodies corporate, for the purpose of taking over any property, rights or liabilities, and any related functions, of local authorities which cease to exist by virtue of orders under section 17 above.
- (2) An order under subsection (1) above may—
 - (a) make provision with respect to the constitution and membership of a residuary body;
 - (b) make provision with respect to the powers of a residuary body to make levies and to borrow and lend money and the treatment and distribution of capital and other money by such a body;
 - (c) make provision with respect to the keeping and auditing of accounts of a residuary body;
 - (d) make provision with respect to directions which may be given by the Secretary of State in relation to the carrying out by a residuary body of any of its functions;
 - (e) make provision for enabling the Secretary of State to require a residuary body to submit to him a scheme for the winding up of the body and the disposal of its property, rights and liabilities and related functions; and
 - (f) without prejudice to the generality of paragraphs (a) to (e) above, make any such provision with respect to a residuary body as was made by Part VII of the Local Government Act 1985 with respect to the residuary bodies established by that Part.
- (3) The Secretary of State may by order provide—
 - (a) for the transfer to any other body or bodies (including any body or bodies corporate established under the order for the purpose) of any property, rights or liabilities, and any related functions, of a residuary body; and
 - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (2)(e) above and for the dissolution of a residuary body.
- (4) The power to make an order under any of the preceding provisions of this section shall include power to make such incidental, consequential, transitional or supplementary provision as the Secretary of State thinks necessary or expedient.

23 Staff commissions

- (1) The Secretary of State may by order establish one or more staff commissions for the purpose of—
 - (a) considering and keeping under review the arrangements for the recruitment of staff by relevant authorities affected by orders under this Part and for the transfer, in consequence of the provisions of any such order, of staff employed by such authorities;
 - (b) considering such staffing problems arising in consequence of such an order, and such other matters relating to staff employed by any such authority, as may be referred to the staff commission by the Secretary of State; and
 - (c) advising the Secretary of State on the steps necessary to safeguard the interests of such staff;

and such a commission may be established either for the whole or for any part of England.

- (2) The Secretary of State may give directions to a staff commission as to their procedure and to any relevant authority affected by an order under this Part with respect to—
 - (a) the supply of any information requested and the implementation of any advice given by a staff commission; and
 - (b) the payment by such an authority of any expenses incurred by a staff commission in doing anything requested by the authority.
- (3) Any expenses incurred by a staff commission under this section and not recovered from a relevant authority shall be paid by the Secretary of State out of money provided by Parliament.
- (4) The Secretary of State may by order provide for the winding up of any staff commission established under this section.
- (5) In this section “relevant authority” means a local authority or a joint authority or residuary body established under section 21 or 22 above.

Supplemental provisions of Part II

24 Abolition of the Local Government Boundary Commission for England

- (1) The Local Government Boundary Commission for England (“the predecessor Commission”) shall cease to exist with the commencement of this section.
- (2) Any property, rights or liabilities to which the predecessor Commission was entitled or subject immediately before the commencement of this section shall become property, rights or liabilities of the Local Government Commission.
- (3) Without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals)—
 - (a) where any report or proposals were submitted by the predecessor Commission to the Secretary of State under Part IV of the 1972 Act before the commencement of this section, the provisions of that Part, and of any regulations made under that Part, that cease to have effect for other purposes by virtue of this Act shall continue to have effect for the purpose of enabling effect to be given (with or without modifications) to those proposals and otherwise in relation to that report and those proposals; and
 - (b) where the Local Government Commission undertakes a review under this Part of any area which was the subject of a review which was being conducted by the predecessor Commission at the commencement of this section, the Secretary of State may, by a direction to the Local Government Commission, dispense in relation to that review with such of the requirements of section 15 above as appear to him to be inappropriate in the light of any steps taken before the commencement of this section by the predecessor Commission.
- (4) If, in the case of any member of the predecessor Commission who ceases to hold office by virtue of subsection (1) above, the Secretary of State determines that there are special circumstances which make it right that that member should receive compensation, he shall pay to that member a sum by way of compensation of such amount as he may determine.

- (5) The approval of the Treasury is required for any determination of the Secretary of State under subsection (4) above; and the sums required by the Secretary of State for making any payment under that subsection shall be paid out of money provided by Parliament.

25 Application of Part II to the Isles of Scilly

The Secretary of State may by order provide that, in their application in relation to the Isles of Scilly, the provisions of this Part shall have effect subject to such modifications as he considers appropriate.

26 Orders, regulations and directions under Part II

- (1) The powers of the Secretary of State under this Part to make orders or regulations shall be exercisable by statutory instrument; and a statutory instrument containing any order or regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament unless—
- (a) it effects a structural change;
 - (b) it establishes a joint authority for two or more local government areas; or
 - (c) it effects only electoral changes or relates only to parishes.
- (2) No order under this Part effecting a structural change or establishing a joint authority for two or more local government areas shall be made unless a draft of the order has been laid before, and approved by resolution of, each House of Parliament; but an order effecting such a change or establishing a joint authority shall, if apart from this subsection it would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.
- (3) Every power of the Secretary of State under this Part to make orders or regulations, or to give directions, shall include power to make different provision for different cases, including different provision for different localities and for different bodies.
- (4) Any power of the Secretary of State by order or regulations under this Part to make incidental, consequential, transitional or supplementary provision shall include power for any incidental, consequential, transitional or supplementary purposes—
- (a) to apply with or without modifications;
 - (b) to extend, exclude or amend; or
 - (c) to repeal or revoke with or without savings,
- any enactment, any instrument made under any enactment or any charter, whenever granted.
- (5) Any power of the Secretary of State under this Part to make by order or regulations provision for the transfer of any functions, property, rights or liabilities or to make transitional provision in connection with any such transfer or with the establishment of any body shall include, in particular, power to provide—
- (a) for legal proceedings commenced by or against any body to be continued by or against a body to whom functions, property, rights or liabilities are transferred;
 - (b) for the transfer of staff, compensation for loss of office, pensions and other staffing matters; and

- (c) for treating any body to whom a transfer is made for some or all purposes as the same person in law as the body from whom the transfer is made.
- (6) A direction under any provision of this Part may be varied or revoked by any subsequent direction under that provision; and where the Secretary of State is satisfied that—
 - (a) a mistake has occurred in the preparation of an order under any provision of this Part; and
 - (b) the mistake is such that it cannot be rectified by a subsequent order made under that provision by virtue of section 14 of the Interpretation Act 1978 (implied power to amend),
 he may by order under this subsection make such provision as he thinks necessary or expedient for rectifying the mistake.
- (7) In this section—
 - “enactment” includes an enactment contained in a provision of this Act (other than a provision of this Part) or in any enactment contained in an Act passed after this Act; and
 - “mistake”, in relation to an order, includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by any public body.

27 Amendments relating to local government changes

- (1) Schedule 3 to this Act (which contains consequential amendments in connection with the provisions of this Part) shall have effect.
- (2) In considering the electoral arrangements for any local government area for the purposes of this Part the Secretary of State and the Local Government Commission shall comply, so far as is reasonably practicable, with the rules set out in Schedule 11 to the 1972 Act (rules to be observed in considering electoral arrangements); and accordingly, in that Schedule, references to “either of the Commissions” shall have effect—
 - (a) until the commencement of section 24 above, as including a reference to the Local Government Commission; and
 - (b) thereafter, as if they were references to the Local Government Commission or the Local Government Boundary Commission for Wales.
- (3) In subsection (2) above “electoral arrangements” has the meaning given by subsection (4) of section 14 above for the purposes of subsection (1)(c) of that section.

PART III

GENERAL

28 Interpretation

- (1) In this Act, except where the context otherwise requires—
 - “the 1972 Act” means the Local Government Act 1972;
 - “the 1973 Act” means the Local Government (Scotland) Act 1973;
 - “the 1980 Act” means the Local Government, Planning and Land Act 1980;

“the 1982 Act” means the Local Government Finance Act 1982;

“the 1988 Act” means the Local Government Act 1988;

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales;

“auditor” means any person who, within the meaning of Part III of the 1982 Act, is an auditor of the accounts of a body with which the Audit Commission is concerned;

“contravention” includes a failure to comply;

“financial year” means the twelve months ending with 31st March;

“local authority” means a principal council, the Common Council of the City of London, the sub-treasurer of the Inner Temple, the under treasurer of the Middle Temple or a parish council;

“local government area” means a principal area, and any of the following as for the time being constituted, that is to say, any metropolitan county, Greater London, the City of London, the Inner Temple, the Middle Temple or a parish;

“the Local Government Commission” means the Local Government Commission for England;

“modifications” includes additions, alterations and omissions;

“principal area” means any of the following as for the time being constituted, that is to say, a non-metropolitan county in England, a district in England or a London borough;

“principal council” means a council elected for a principal area;

“public body” includes any local authority, any joint authority or residuary body established under Part II of this Act and any other body which is a public body for the purposes of Part IV of the 1972 Act;

“the Scottish Accounts Commission” means the Commission for Local Authority Accounts in Scotland or, in relation to any time after the coming into force of paragraph 3 of Schedule 7 to the National Health Service and Community Care Act 1990, that Commission as re-named by that paragraph;

“staff” includes officers and employees.

- (2) References in this Act to a body with which the Audit Commission is concerned are references to any body any of whose accounts are required to be audited under Part III of the 1982 Act (including the Common Council of the City of London).
- (3) References in this Act (however framed) to a body affected by any recommendations, changes or order under Part II of this Act include references to a body whose area or functions are so affected or to a body which is to cease to exist in pursuance of the recommendations, changes or order and, in relation to an order, include a body which is established under or in consequence of the order.

29 Consequential amendment, repeals and saving

- (1) Part III of the 1982 Act and Part VII of the 1973 Act shall each have effect as if any functions under this Act of an auditor, of the Audit Commission, of the Controller of Audit or of the Scottish Accounts Commission were included in any references in that Part to the functions under that Part of an auditor, of the Controller of Audit or of the Commission in question.
- (2) The enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

- (3) Without prejudice to sections 16 and 17 of the Interpretation Act 1978 (effect of repeals), the repeal by this Act of any provision contained in Part IV of the 1972 Act shall not affect the continuing validity, after the coming into force of that repeal, of any provision contained in any order made under that Part.

30 Short title, commencement and extent

- (1) This Act may be cited as the Local Government Act 1992.
- (2) Sections 1 to 7 above and, in Part I of Schedule 4 to this Act, the repeal in the 1982 Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) The following provisions of this Act, that is to say—
- (a) sections 8 to 11, Schedule 1 and, in Part I of Schedule 4, the repeals in the 1980 Act and the 1988 Act; and
 - (b) section 24, Schedule 3 and Part II of Schedule 4,
- 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 appointed under this subsection for different provisions and for different purposes.
- (4) The following provisions of this Act do not extend to Scotland, that is to say—
- (a) sections 4 and 7;
 - (b) Part II, apart from the amendments contained in paragraphs 11 and 12 of Schedule 2 and in paragraphs 21 and 22 of Schedule 3; and
 - (c) Schedule 4, apart from so much of Part II as makes a repeal in the House of Commons Disqualification Act 1975.
- (5) Except for the purposes of—
- (a) the amendments contained in paragraphs 11 and 12 of Schedule 2 and in paragraph 21 of Schedule 3; and
 - (b) so much of Part II of Schedule 4 as makes a repeal in the House of Commons Disqualification Act 1975,
- this Act does not extend to Northern Ireland.