



Deregulation and Contracting Out Act 1994

1994 CHAPTER 40

PART II

CONTRACTING OUT

Contracting out of functions

70 Functions of local authorities.

- (1) This section applies to any function of a local authority—
- (a) which is conferred by or under any enactment; and
 - (b) which, by virtue of section 101 of ^{M1} the Local Government Act 1972 or section 56 of ^{M2} the Local Government (Scotland) Act 1973 [^{F1} or an enactment mentioned in subsection (1ZA) below], may be exercised by an officer of the authority; and
 - (c) which is not excluded by section 71 below.

[^{F2}(1A) This section also applies to any function of a local authority—

- (a) if, and to the extent that, it is the responsibility of an executive of that local authority under executive arrangements, within the meaning of Part II of the Local Government Act 2000;
- (b) which is conferred by or under any enactment;
- (c) which, by virtue of any of sections 14 to 16, or any provisions made under sections 17 to 20, of the Local Government Act 2000 (provisions with respect to executive arrangements—discharge of functions etc.), may be exercised by an officer of the local authority; and
- (d) which is not excluded by section 71 below.]

[^{F3}(1ZA) The enactments referred to in subsection (1)(b) above are—

- ^{F4}(a)

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- (b) section 38 or 380 of the Greater London Authority Act 1999 (delegation of functions exercisable by the Mayor of London);
- (c) paragraph 7 of Schedule 10 to that Act (delegation by Transport for London).

(1ZB) In its application in relation to a local authority which is a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies [^{F5}or a fire and rescue authority created by an order under section 4A of that Act], subsection (1) above has effect as if paragraph (b) were omitted.]

[^{F6}(1ZC) In its application to a local authority which is a corporate joint committee established by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021, subsection (1) has effect as if for paragraph (b) there were substituted—

“(b) which by virtue of regulation 13 of the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021 may be exercised by an officer of the authority;”]

(2) If a Minister by order so provides, a function to which this section applies may be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the local authority whose function it is.

(3) A Minister shall not make an order under this section in relation to a local authority without first consulting—

- (a) in the case of an authority in England or Wales, such representatives of local government;
- (b) in the case of an authority in Scotland, such associations of local authorities, as he considers appropriate.

(4) Subsections (4) and (5) of section 69 above shall apply for the purposes of this section as they apply for the purposes of that section; and in subsection (5) of that section as so applied any reference to the Minister or office-holder by whom the authorisation is given shall be construed as a reference to the local authority by which the authorisation is given.

(5) Where at any time—

- (a) an order is in force under this section in relation to any function of a local authority (“authority A”); and
- (b) arrangements are in force under section 101 of ^{M3} the Local Government Act 1972 or section 56 of ^{M4} the Local Government (Scotland) Act 1973 for the exercise of that function by another local authority (“authority B”),

it shall be an implied term of those arrangements that, except with the consent of authority A, authority B shall not give any authorisation by virtue of the order in relation to that function.

[^{F7}(5A) In its application to a local authority which is a corporate joint committee established by regulations under Part 5 of the Local Government and Elections (Wales) Act 2021, subsection (5) has effect as if the references to arrangements under section 101 of the Local Government Act 1972 were references to arrangements under regulation 13 of the Corporate Joint Committees (General) (No. 2) (Wales) Regulations 2021.]

[^{F8}(6) Any reference in subsection (5) above to arrangements under section 101 of the ^{M5} Local Government Act 1972 includes a reference to an authorisation under section 38 or 380 of the Greater London Authority Act 1999.]

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[^{F9}(7) Where at any time—

- (a) an order is in force under this section in relation to any function of a local authority (“authority A”);
- (b) that function, to any extent, is the responsibility of an executive of authority A under executive arrangements, within the meaning of Part II of the Local Government Act 2000; and
- (c) arrangements are in force under regulations made under section 19 of the Local Government Act 2000 (discharge of functions of and by another local authority) for the exercise of that function, to any extent, by another local authority (“authority B”) or by any executive of authority B,

it shall be an implied term of those arrangements that authority B or, as the case may be, the executive of authority B, shall not give any authorisation by virtue of the order in relation to that function except with the consent of the executive of authority A.]

Textual Amendments

- F1** Words in s. 70(1)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 239\(1\)\(a\)](#), 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F2** S. 70(1A) inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [art. 29](#), and the same subsection inserted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 28\(a\)](#)
- F3** S. 70(1ZA)(1ZB) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 239\(1\)\(b\)](#), 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F4** S. 70(1ZA)(a) repealed (1.7.2012 at 0.02 a.m.) by [Public Bodies Act 2011 \(c. 24\)](#), s. 38(3), [Sch. 6](#); S.I. 2012/1662, art. 2(2)(b)
- F5** Words in s. 70(1ZB) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 1 para. 74](#); S.I. 2017/399, reg. 2, Sch. para. 38
- F6** S. 70(1ZC) inserted (E.W.) (25.3.2022) by [The Corporate Joint Committees \(General\) \(Wales\) Regulations 2022 \(S.I. 2022/372\)](#), regs. 1(2), [12\(a\)\(i\)](#)
- F7** S. 70(5A) inserted (E.W.) (25.3.2022) by [The Corporate Joint Committees \(General\) \(Wales\) Regulations 2022 \(S.I. 2022/372\)](#), regs. 1(2), [12\(a\)\(ii\)](#)
- F8** S. 70(6) inserted (8.5.2000) by [1999 c. 29](#), [s. 40\(3\)](#); S.I. 2000/801, art. 2(2)(b), [Sch. Part 2](#)
- F9** S. 70(7) inserted (E.) (11.7.2001) by [S.I. 2001/2237](#), [art. 29](#), and the same subsection inserted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 28\(b\)](#)

Modifications etc. (not altering text)

- C1** S. 70 modified (16.7.1998) by [1998 c. 30](#), [s. 23\(3\)\(b\)](#) (with s. 42(8))
S. 70 extended (27.9.1999 with effect in relation to England and Wales and 27.7.2000 otherwise) by [1999 c. 27](#), [ss. 18](#), 27(1)(2)(c); S.I. 1999/2169, [art. 3\(1\)](#)
S. 70 extended (*prosp.*) by [2002 c. 32](#), [ss. 183\(4\)\(a\)](#), 216 (with ss. 210(8), 214(4))
- C2** S. 70 extended (1.9.2003) by [Education Act 2002 \(c. 32\)](#), [ss. 183\(4\)\(a\)](#), 216(4) (with ss. 210(8), 214(4)); S.I. 2003/1667, art. 4; S.I. 2003/1718, art. 5, Sch. Pt. 2
- C3** S. 70 functions transferred (W.) (24.5.2018) by [The Welsh Ministers \(Transfer of Functions\) Order 2018 \(S.I. 2018/644\)](#), arts. 1(1), [33\(1\)](#)

Marginal Citations

- M1** [1972 c. 70](#).
- M2** [1973 c. 65](#).
- M3** [1972 c. 70](#).
- M4** [1973 c. 65](#).

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M5 1972 c. 70.

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Changes and effects yet to be applied to :

- s. 70 repealed in part by [1999 c. 29 Sch. 34 Pt. 9](#)

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

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

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