



# Local Government and Rating Act 1997

## 1997 CHAPTER 29

An Act to make further provision about non-domestic rating; to make further provision about parishes and parish councils; to confer additional powers on parish councils and community councils; and for connected purposes. [19th March 1997]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

VALID FROM 01/04/1997

### PART I

#### NON-DOMESTIC RATING

*England and Wales*

VALID FROM 19/11/1997

#### **1 General stores etc. in rural settlements.**

The <sup>M1</sup>Local Government Finance Act 1988 (referred to in this Part as “the 1988 Act”) is amended as set out in Schedule 1 (which provides for mandatory or discretionary relief from non-domestic rates for certain hereditaments in rural settlements).

**Status:** Point in time view as at 19/03/1997. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government and Rating Act 1997. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

## Marginal Citations

M1 1988 c. 41.

## 2 Sporting rights.

- (1) Part III of the 1988 Act is amended as set out in subsections (2) to (6) (which provide for the abolition of liability to non-domestic rating in respect of sporting rights).
- (2) In section 64(4) (relevant hereditaments), paragraph (d) (rights of sporting severed from occupation of land) is omitted.
- (3) In section 65 (owners and occupiers of hereditaments or land)—
  - (a) in subsection (3), for “subsections (4) to (9) below” there is substituted “ the following provisions of this section ”, and
  - (b) subsection (9) (owners and occupiers of rights of sporting) is omitted.
- (4) In Schedule 5 (hereditaments exempt from local non-domestic rating), paragraphs 10 (certain fishing rights) and 14(3) (fishing and shooting rights of drainage authorities) are omitted.
- (5) In Schedule 6 (rateable value of non-domestic hereditaments), after paragraph 2B there is inserted—

“2C (1) This paragraph applies where—

- (a) a hereditament consists wholly or in part of land on which a right of sporting is exercisable; and
- (b) the right is not severed from the occupation of the land.

(2) For the purposes of determining the rateable value of the hereditament under paragraph 2 above, the rent at which the hereditament might reasonably be expected to let shall be estimated as if the right of sporting did not exist.

(3) In this paragraph “right of sporting” means a right of fowling, shooting, taking or killing game or rabbits, or fishing.”

- (6) In paragraph 3 of Schedule 6 (alternative rules for determination of rateable value of certain hereditaments), in sub-paragraphs (1)(a) and (2)(a), for “2B” there is substituted “ 2C ”.

VALID FROM 01/04/2000

## 3 Crown property.

After section 65 of the 1988 Act there is inserted—

“65A Crown property.

- (1) This Part applies to the Crown as it applies to other persons.

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- (2) Accordingly, liability to a non-domestic rate in respect of a hereditament is not affected by the fact that—
- (a) the hereditament is occupied by the Crown or by a person acting on behalf of the Crown or is used for Crown purposes, or
  - (b) the Crown or a person acting on behalf of the Crown is the owner of the hereditament.
- (3) If (apart from this subsection) any property would consist of two or more Crown hereditaments, the property is to be treated for the purposes of this Part as if it were a single hereditament occupied by such one of the occupiers as appears to the billing authority to occupy the largest part of the property.
- (4) In this section, “Crown hereditament” means a hereditament which—
- (a) is occupied by a Minister of the Crown or Government department or by any officer or body exercising functions on behalf of the Crown, but
  - (b) is not provided or maintained by a local authority or by a police authority established under section 3 of the <sup>M2</sup>Police Act 1996.
- (5) In this section—
- (a) references to this Part include any subordinate legislation (within the meaning of the <sup>M3</sup>Interpretation Act 1978) made under it, and
  - (b) “local authority” has the same meaning as in the <sup>M4</sup>Local Government Act 1972, and includes the Common Council of the City of London.
- (6) The Secretary of State may by order amend subsection (4)(b) above so as to alter the persons for the time being referred to there.
- (7) Subsection (3) above does not affect the power conferred by section 64(3) above”.

#### Marginal Citations

**M2** 1996 c. 16.

**M3** 1978 c. 30.

**M4** 1972 c. 70.

VALID FROM 01/10/1998

#### 4 Visiting forces etc.

In Schedule 5 to the 1988 Act (hereditaments exempt from non-domestic rating), after paragraph 19 there is inserted—

#### Visiting forces etc.

“19A (1) A hereditament is exempt to the extent that it consists of property which is occupied for the purposes of a visiting force, or a

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headquarters, in pursuance of arrangements made in that behalf with any Government department.

(2) In this paragraph—

“headquarters” means an international headquarters or defence organisation designated by an Order in Council under section 1 of the <sup>M5</sup>International Headquarters and Defence Organisations Act 1964; and

“visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any provision of the <sup>M6</sup>Visiting Forces Act 1952.”

#### Marginal Citations

**M5** 1964 c. 5.

**M6** 1952 c. 67.

VALID FROM 01/12/1997

### *Scotland*

#### **5 General stores etc. in rural settlements.**

Schedule 2 (which provides for mandatory or discretionary relief from non-domestic rates for certain lands and heritages in rural settlements) is to have effect.

VALID FROM 01/04/2000

#### **6 Crown property.**

- (1) Enactments relating to non-domestic rating apply to the Crown as they apply to other persons.
- (2) Accordingly, liability to a non-domestic rate in respect of lands and heritages is not affected by the fact that—
  - (a) the lands and heritages are occupied by the Crown or by a person acting on behalf of the Crown or are used for Crown purposes, or
  - (b) the Crown or a person acting on behalf of the Crown is entitled to possession of the lands and heritages.
- (3) Section 3(1) of the <sup>M7</sup>Local Government (Scotland) Act 1975 is to have effect as if the reference to making an alteration in the valuation roll under the enactments there mentioned included a reference to the coming into force of this section.
- (4) If (apart from this subsection) relevant lands and heritages would be treated as justifying two or more separate entries in the valuation roll, the lands and heritages are to be treated—

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- (a) as justifying only one such entry, and
  - (b) as occupied by the person mentioned in subsection (5)(b) appearing to the rating authority to occupy the largest part of the lands and heritages to which the single entry relates.
- (5) “Relevant lands and heritages” are lands and heritages which—
- (a) if they were occupied by a single occupier, would attract a single entry in the valuation roll, and
  - (b) are occupied by more than one of any of the following—
    - (i) a Minister of the Crown,
    - (ii) a Government department, or
    - (iii) an officer or body exercising functions on behalf of the Crown.
- (6) Subsection (4) does not apply to lands and heritages provided or maintained by a local authority or joint board (within the meaning of the <sup>M8</sup>Local Government (Scotland) Act 1973).
- (7) The Secretary of State may by order amend subsection (6) so as to alter the persons for the time being referred to there.
- (8) Subsection (4) does not affect the power conferred by section 6A of the <sup>M9</sup>Valuation and Rating (Scotland) Act 1956.
- (9) In this section—
- “enactment” includes any subordinate legislation (within the meaning of the <sup>M10</sup>Interpretation Act 1978),
  - “non-domestic rate” is to be construed in accordance with section 7B of the <sup>M11</sup>Local Government (Scotland) Act 1975.

#### Marginal Citations

- M7** 1975 c. 30.
- M8** 1973 c. 65.
- M9** 1956 c. 60.
- M10** 1978 c. 30.
- M11** 1975 c. 30.

VALID FROM 01/10/1998

## 7 Visiting forces etc.

- (1) After this section comes into force, no lands and heritages which are occupied for the purposes of a visiting force, or a headquarters, in pursuance of arrangements made in that behalf with any Government department are to be entered in the valuation roll.
- (2) In this section—
- “headquarters” means an international headquarters or defence organisation designated by an Order in Council under section 1 of the <sup>M12</sup>International Headquarters and Defence Organisations Act 1964,

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“visiting force” means any such body, contingent or detachment of the forces of any country as is a visiting force for the purposes of any provision of the <sup>M13</sup>Visiting Forces Act 1952.

#### Marginal Citations

**M12** 1964 c. 5.

**M13** 1952 c. 67.

### 8 Orders under section 6 and Schedule 2.

- (1) Subject to subsection (2), the power to make an order under section 6 and Schedule 2 shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The power to make an order under paragraph 3(2)(c)(ii) of Schedule 2 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 resolution of each House of Parliament.
- (3) The power to make an order as mentioned in subsection (1) may be exercised differently in relation to different areas or in relation to other different cases or descriptions of case.

VALID FROM 19/05/1997

## PART II

### PARISHES AND PARISH COUNCILS

#### Modifications etc. (not altering text)

- C1** Pt. II: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

#### *Establishment and review*

### 9 Reviews of parishes by local authorities.

- (1) A district council, or a unitary county council, may conduct a review of the whole or any part of their area for the purpose of considering whether or not to make any recommendations within subsection (2) to the Secretary of State and (if they decide to do so) what recommendations.
- (2) The recommendations which the council may make following the review are recommendations for—
  - (a) the constitution of a new parish by—

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- (i) the establishment as a parish of any area which is not, and is not part of, a parish,
    - (ii) the aggregation of any such area with one or more parishes or parts of parishes,
    - (iii) the aggregation of parts of parishes,
    - (iv) the amalgamation of two or more parishes, or
    - (v) the separation of part of any parish,
  - (b) the abolition of a parish, with or without the distribution of its area among other parishes, or
  - (c) the alteration of the area of a parish.
- (3) Subject to subsection (4), if the council make any recommendation for the constitution of a new parish, they must include recommendations for—
- (a) the establishment of a new parish council for the parish, and
  - (b) the electoral arrangements for the council.
- (4) If the population of a new parish recommended by the council would include fewer than 200 local government electors, the council may include the recommendations mentioned in subsection (3), but are not under a duty to do so.
- (5) If the council make a recommendation for the alteration of the area of a parish which has a parish council, they may include recommendations for changes to the electoral arrangements for the council.
- (6) If the council make any recommendation within subsection (2), they may include a recommendation for the related alteration of the boundaries of any electoral division of a county, or ward of a district, within their area and any consequential alteration in the number of councillors to be elected for the ward.

## **10 Procedure on a review.**

- (1) If a district council or unitary county council decide to conduct a review under section 9, they must as soon as reasonably practicable take the steps they consider sufficient to secure that persons who may be interested in the review are informed of—
- (a) the decision to conduct the review,
  - (b) the subject-matter of the review, and
  - (c) the period within which representations about the subject-matter of the review may be made.
- (2) In conducting the review, the council must take into consideration any representations made to them within the period mentioned in subsection (1)(c).
- (3) After conducting the review, unless they decide not to make any recommendations to the Secretary of State, the council must —
- (a) prepare draft recommendations and take the steps they consider sufficient to secure that persons who may be interested in them are informed of them and of the period within which representations about them may be made,
  - (b) deposit copies of the draft recommendations at their principal office and keep the copies available for inspection at that office throughout the period within which representations about them may be made, and

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- (c) take into consideration any such representations made to them within that period.
- (4) If the council then decide to make any recommendations, they must send them to the Secretary of State and, as soon as they do so—
  - (a) deposit copies of the recommendations at their principal office, and
  - (b) take the steps they consider sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which the copies may be inspected.
- (5) Further, the council must keep the copies available for inspection at their principal office throughout the period within which they may be inspected.

## **11 Petitions for new parishes.**

- (1) If a district council or unitary county council receive a petition which complies with subsection (2) for—
  - (a) the constitution as a parish of an area (within their area) which is not wholly or partly within a parish, and
  - (b) the establishment of a parish council for any such area,
 they must send the petition to the Secretary of State.
- (2) The petition must—
  - (a) be signed by not less than—
    - (i) 250 local government electors for the area to which it relates, or
    - (ii) 10 per cent. of the local government electors for that area,
 whichever is the greater number of local government electors, and
  - (b) define the area to which it relates, whether on a map or otherwise.
- (3) But if—
  - (a) an earlier petition has been made to the council within the period of two years ending with the day when they received the petition,
  - (b) in the opinion of the council the area to which the later petition relates covers the whole or a significant part of the area to which the earlier petition related, and
  - (c) the council have sent the earlier petition to the Secretary of State under this section,
 the council may send the later petition to the Secretary of State, but are not under a duty to do so.
- (4) Where a council are under a duty, or decide, to send a petition to the Secretary of State under this section, they must send the petition, together with their views about it, to him before the end of the period of three months beginning with the day when they received it.
- (5) For the purposes of this section and sections 12, 13 and 14—
  - (a) a petition proposing the constitution of any area as a parish is to be treated as if it also proposed the establishment of a parish council for the parish, and
  - (b) a petition proposing the establishment of a parish council for any area is to be treated as if it also proposed the constitution of the area as a parish.



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- (6) If a district council receive a petition falling within subsection (1), they must as soon as reasonably practicable notify any county council within whose area the district of the district council is situated of the proposals contained in the petition.
- (7) The county council may send their views about the proposals contained in the petition to the district council or the Secretary of State.

## **12 Views of local authority about the petition.**

- (1) The views which a district council or unitary county council send to the Secretary of State (together with a petition) under section 11 must—
  - (a) show whether or not they agree with the proposals contained in the petition, and
  - (b) summarise any information the council have about the opinions held by local government electors in their area about the proposals,and may contain any other information or observations they think fit.
- (2) Where a district council or unitary county council receive a petition which they propose to send to the Secretary of State under section 11 and decide to consider—
  - (a) the electoral arrangements for the proposed parish council, or
  - (b) the related alteration of the boundaries of any electoral division of a county, or ward of a district, within their area and any consequential alteration in the number of councillors for that ward,they must inform the Secretary of State of their decision when they send him the petition.
- (3) Further, if the council decide to consider either of those matters, they must—
  - (a) as soon as reasonably practicable take the steps they consider sufficient to secure that persons who may be interested in any of those matters are informed of the period within which representations about them may be made, and
  - (b) take into consideration any representations about those matters made to them within the period.
- (4) If the council then decide to make any recommendations to the Secretary of State about those matters, they must send them to the Secretary of State and, as soon as they do so—
  - (a) deposit copies of the recommendations at their principal office, and
  - (b) take the steps they consider sufficient to secure that persons who may be interested in the recommendations are informed of them and of the period within which the copies may be inspected.
- (5) Further, the council must keep the copies available for inspection at their principal office throughout the period within which they may be inspected.
- (6) If the council decide not to make any recommendations to the Secretary of State about those matters, they must inform him of their decision as soon as reasonably practicable.
- (7) Any recommendations about those matters must be sent to the Secretary of State before the end of the period of six months beginning with the day when the council received the petition.

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### 13 Consultation with Local Government Commission.

- (1) The Local Government Commission for England must consider any of the following matters which the Secretary of State directs it to consider—
  - (a) where any recommendations are made to the Secretary of State under section 9, the recommendations and any matter relating to the recommendations which might have been covered in them,
  - (b) where any petition is sent to him under section 11, the petition, any recommendations sent to him under section 12 relating to the petition, and any matter relating to the petition which might have been covered in such recommendations.
- (2) If the Commission is directed by the Secretary of State to consider any matters within subsection (1), the Commission must—
  - (a) take the steps it considers sufficient to secure that persons who may be interested in those matters are informed of them and of the period within which representations about them may be made, and
  - (b) take into consideration any such representations made to it within that period.
- (3) If the Commission decides not to make any further or different proposals about the matters it is directed to consider, the Commission must inform the Secretary of State of its decision.
- (4) If the Commission decides to make any further or different proposals, the Commission must—
  - (a) send them to the Secretary of State, and
  - (b) take the steps it considers sufficient to secure that persons who may be interested in its proposals are informed of them.
- (5) The Commission must provide the Secretary of State with any additional information he directs it to provide.
- (6) The power of the Secretary of State under this section to direct the Commission to consider a petition sent to him under section 11 or recommendations sent to him under section 12 is not affected by the fact that the petition or recommendations were sent after the end of the periods mentioned in sections 11(4) and 12(7) respectively.

#### Modifications etc. (not altering text)

- C2** Ss. 13, 14, 17(4): power to transfer or modify functions conferred (30.11.2000 so far as the section confers power to make an order or regulations and otherwise 30.10.2001) by 2000 c. 41, s. 18(3)(b) (4) (with s. 156(6)); S.I. 2001/3526, art. 2(c)

### 14 Implementation by Secretary of State.

- (1) The Secretary of State may, if he thinks fit, by order give effect to—
  - (a) any recommendations made to him under section 9 (together with any proposals relating to them sent to him by the Local Government Commission for England),
  - (b) any petition sent to him under section 11 (together with any recommendations sent to him under section 12, and any proposals sent to him by the Commission, relating to the petition),

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and may do so with or without modifications.

- (2) An order under this section may also make a related alteration of the boundaries of any electoral division of a county, or ward of a district, within the area of the district council, or unitary county council, concerned and any consequential alteration in the number of councillors to be elected for the ward.
- (3) An order under this section establishing a parish council must include any provision which appears to the Secretary of State to be necessary for the election of the council in accordance with the <sup>M14</sup>Local Government Act 1972 and Part I of the <sup>M15</sup>Representation of the People Act 1983.
- (4) An order under this section may direct the district council, or unitary county council, concerned—
  - (a) to establish a parish council for a new parish constituted by any such order,
  - (b) to make specified electoral arrangements for the parish council, and
  - (c) to make specified provision for the election of the parish council in accordance with the <sup>M16</sup>Local Government Act 1972 and Part I of the <sup>M17</sup>Representation of the People Act 1983.
- (5) The power of the Secretary of State under this section to give effect to a petition sent to him under section 11 or recommendations sent to him under section 12 is not affected by the fact that the petition or recommendations were sent after the end of the periods mentioned in sections 11(4) and 12(7) respectively.

#### **Modifications etc. (not altering text)**

- C3** *Ss. 13, 14, 17(4):* power to transfer or modify functions conferred (30.11.2000 so far as the section confers power to make an order or regulations and otherwise 30.10.2001) by 2000 c. 41, s. 18(3)(b) (4) (with s. 156(6)); S.I. 2001/3526, art. 2(c)

#### **Marginal Citations**

- M14** 1972 c. 70.  
**M15** 1983 c. 2.  
**M16** 1972 c. 70.  
**M17** 1983 c. 2.

### **15 Regulations for supplementing orders under section 14.**

- (1) The Secretary of State may by regulations of general application make any incidental, consequential, transitional or supplementary provision he thinks necessary or expedient for the purposes or in consequence of any orders made by him under section 14 or for giving full effect to such orders.
- (2) Regulations under subsection (1) are to have effect subject to any provision made by the orders to which they relate.

### **16 Establishment of new parish councils by local authorities.**

- (1) This section applies where a parish has no separate parish council.
- (2) Subject to subsection (3), the district council or unitary county council within whose area the parish is situated must establish a separate parish council for the parish if—

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- (a) the population includes at least 200 local government electors, or
  - (b) the population includes more than 150 but fewer than 200 local government electors and the parish meeting resolve that there should be a parish council.
- (3) Where the parish is within subsection (2)(a) or (b) and grouped under a common parish council, the district council or unitary county council concerned may establish a separate parish council for the parish, but are not under a duty to do so.
- (4) The district council or unitary county council concerned may establish a separate parish council for the parish if it is not within subsection (2)(a) or (b) but the parish meeting resolve that there should be a separate parish council.
- (5) The power of a district council or unitary county council under this section is exercisable by order.

## 17 Electoral arrangements.

- (1) Where a district council or unitary county council by order establish a separate parish council for a parish under section 16, they must by the order—
- (a) make any electoral arrangements which appear to them to be necessary for the separate parish council, and
  - (b) make any other provision which appears to them to be necessary for the election of the parish council in accordance with the <sup>M18</sup>Local Government Act 1972 and Part I of the <sup>M19</sup>Representation of the People Act 1983.
- (2) A district council or unitary county council may conduct a review of the electoral arrangements for the council of a parish in their area for the purpose of considering whether or not to make any changes to the arrangements and, if so, what changes.
- (3) If following a review under this section the council decide that changes should be made to the electoral arrangements, they may by order give effect to all or any of the changes.
- (4) Subsection (3) does not apply if the electoral arrangements for the parish council have been made or altered by or in pursuance of an order under section 14, or by an order under Part IV of the <sup>M20</sup>Local Government Act 1972 or section 17 of the <sup>M21</sup>Local Government Act 1992, and—
- (a) the period of five years beginning with the day on which the order was made has not expired, and
  - (b) the Secretary of State has not consented to the council making the changes.
- (5) The power of a council to make an order under this section includes power to vary or revoke any order previously made under section 16 or this section.

### Modifications etc. (not altering text)

- C4** *Ss. 13, 14, 17(4):* power to transfer or modify functions conferred (30.11.2000 so far as the section confers power to make an order or regulations and otherwise 30.10.2001) by 2000 c. 41, s. 18(3)(b) (4) (with s. 156(6)); S.I. 2001/3526, art. 2(c)

### Marginal Citations

- M18** 1972 c. 70.  
**M19** 1983 c. 2.  
**M20** 1972 c. 70.

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M21 1992 c. 19.

## 18 Considerations in deciding about electoral arrangements.

- (1) This section applies where the Secretary of State, the Local Government Commission for England, a district council or a unitary county council (“the authority”) are considering electoral arrangements under sections 9 to 17.
- (2) When considering whether a parish should be divided into parish wards, the authority must consider whether—
  - (a) the number or distribution of the local government electors of the parish is such as to make a single election of parish councillors impracticable or inconvenient, and
  - (b) it is desirable that any area or areas of the parish should be separately represented on the parish council.
- (3) Where the authority decide that a parish should be divided into parish wards and are considering the size and boundaries of the wards and the number of parish councillors to be elected for each ward, the authority must have regard to—
  - (a) any change in the number or distribution of local government electors for the parish that is likely to occur in the five years beginning with their consideration,
  - (b) the desirability of fixing boundaries which are and will remain easily identifiable, and
  - (c) any local ties which will be broken by the fixing of any particular boundaries.
- (4) Where the authority decide that a parish should not be divided into parish wards and are considering the number of councillors to be elected for the parish, the authority must have regard to—
  - (a) the number of the local government electors for the parish, and
  - (b) any change in that number which is likely to occur in the period of five years beginning with their decision.

## 19 Reviews of parishes by Local Government Commission.

- (1) In section 13 of the <sup>M22</sup>Local Government Act 1992 (duty of Local Government Commission for England to conduct reviews and make recommendations) after subsection (1) there is inserted—

“(1A) 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 parish boundary changes or parish electoral changes as are specified in the recommendations; or
    - (ii) that he should make no such changes.

(1B) Recommendations under subsection (1A) above for parish boundary changes may include recommendations for the related alteration of the

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boundaries of any electoral division of a county or ward of a district and any consequential alteration in the number of councillors to be elected for the ward.

(1C) For the purposes of subsections (1A) and (1B) above—

- (a) a parish boundary change means a boundary change which is the alteration of the area of a parish, the constitution of a new parish or the abolition of a parish; and
- (b) a parish electoral change means an electoral change which is a change of the electoral arrangements mentioned in section 14(4)(b) below”.

(2) In section 14 of the Act of 1992 (changes that may be recommended by the Commission), in subsection (5), after paragraph (b) there is inserted—

- “(ba) the establishment of a parish council for any new parish which would result from any recommended boundary change and the electoral arrangements (as defined in subsection (4)(b) above) for the council”.

#### Marginal Citations

M22 1992 c. 19.

## 20 Election of parish councillors.

(1) In section 17(3) of the <sup>M23</sup>Local Government Act 1992 (provisions which may be included in orders implementing recommendations of Local Government Commission), after paragraph (e) there is inserted—

- “(ea) in the case of an order containing provision for a 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, the ordinary year of election and the order of retirement of parish councillors for any parish situated in the area”.

(2) Where—

- (a) an order under section 17 of the <sup>M24</sup>Local Government Act 1992 has been made before the coming into force of this section, and
- (b) the order includes provision for 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,

the Secretary of State may by order make provision with respect to the ordinary year of election and the order of retirement of parish councillors for any parish situated in that area.

(3) In subsection (2) “structural change” has the same meaning as in Part II of the Local Government Act 1992 (see section 14).

#### Marginal Citations

M23 1992 c. 19.

M24 1992 c. 19.

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### *Consultation*

#### **21 Consultation with parish councils.**

- (1) Where a county council or a district council are to consider any proposal relating to a matter designated for the purposes of this subsection, the council must—
  - (a) afford parish councils within their area an opportunity to make representations to them about the proposal,
  - (b) before taking any decision in relation to the proposal, take into account any representations about the proposal made to them by any parish council within their area, and
  - (c) when they take a decision with respect to the proposal, notify without delay any parish council within their area by whom any representations about the proposal have been made.
- (2) If a parish council have given written notice to a county council or district council whose area they are within—
  - (a) that they wish to be consulted about a specified proposal to be considered by the council which relates to a matter designated for the purposes of this subsection, or
  - (b) that they wish to be consulted about any proposal to be considered by the council which relates to such a matter,the county council or district council must take the steps mentioned in subsection (1) in relation to that parish council.
- (3) An order under this section may prescribe circumstances (including, in particular, the need to act with urgency) in which subsections (1) and (2) do not apply.
- (4) A contravention of the duty imposed by subsection (1) or (2) does not affect the validity of any decision of a county council or district council or of anything done in pursuance of any such decision.
- (5) For the purposes of this section, a parish council is within the area of a county council or district council if—
  - (a) the parish is situated within the county or (as the case may be) the district, or
  - (b) where it is the council of a group of parishes, the area of the group is situated wholly or in part within the county or (as the case may be) the district.
- (6) In this section “designated” means designated by an order made by the Secretary of State.

### *Supplemental*

#### **22 Exercise of functions.**

- (1) In exercising their powers under sections 9 to 12 and 17(2), a district council or unitary county council must have regard to any guidance given by the Secretary of State.
- (2) The functions of district councils and unitary county councils under sections 9, 11 and 12, and of the Local Government Commission for England under section 13, are to be exercised in the manner which appears to the council concerned or the Commission (as the case may be) desirable having regard to the need—

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- (a) to reflect the identities and interests of local communities, and
  - (b) to secure effective and convenient local government.
- (3) The Secretary of State may give directions about the exercise by the Local Government Commission for England of any functions under section 13, and the directions may require the Commission to have regard to any guidance given by the Secretary of State as respects matters to be taken into account.
- (4) The power of the Secretary of State to give directions under subsection (3) includes power—
- (a) to make different provision for different cases including different provision for different areas or localities and for different authorities, and
  - (b) to vary or revoke any directions previously given under that subsection.

### **23 Orders and regulations under Part II.**

- (1) Any power of the Secretary of State under section 14, 15, 20 or 21 to make orders or regulations is exercisable by statutory instrument.
- (2) A statutory instrument containing any regulations under section 15 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power to make orders or regulations under this Part may be exercised to make different provision for different cases, including different provision for different areas or localities and for different authorities.
- (4) Any power of any person to make orders under this Part includes power to make any incidental, supplemental, consequential or transitional provision which the person thinks necessary or expedient.
- (5) The provision which may be made by or in pursuance of an order under section 14, or by regulations under section 15 or an order under section 16, includes—
- (a) the transfer of functions, property, rights or liabilities (which includes power to make provision mentioned in subsection (6)), and
  - (b) the management or custody of transferred property (whether real or personal).
- (6) The provision referred to in subsection (5)(a) is provision—
- (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.
- (7) The provision which may be made by or in pursuance of an order under section 14, or by regulations under section 15 or an order under section 16, 17 or 20, includes the exclusion or modification of the application of—
- (a) section 16(3) or 90 of the <sup>M25</sup>Local Government Act 1972 (elections of parish councillors), or
  - (b) rules under section 36 of the <sup>M26</sup>Representation of the People Act 1983 (local elections), whenever made.



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- (8) Where a council make an order under section 16 or 17, they must send two copies of the order to the Secretary of State.
- (9) Section 20 of the <sup>M27</sup>Local Government Act 1992 applies to an order under section 14, 16 or 17 as it applies to an order under Part II of that Act.

#### Marginal Citations

**M25** 1972 c. 70.

**M26** 1983 c. 2.

**M27** 1992 c. 19.

## 24 Interpretation of Part II.

- (1) This section applies for the interpretation of this Part.
- (2) “Electoral arrangements”, in relation to an existing or proposed parish council, means—
- (a) the number of councillors,
  - (b) the question whether or not the parish or (in the case of a common parish council) any of the parishes should be, or continue to be, divided into wards for the purposes of the election of councillors,
  - (c) the number and boundaries of any such wards,
  - (d) the number of councillors to be elected for any such ward or (in the case of a common parish council) for each parish, and
  - (e) the name of any such ward.
- (3) “Unitary county council” means the council of a county in which there are no district councils.
- (4) “Local government elector” has the same meaning as in the <sup>M28</sup>Local Government Act 1972 (see section 270).

#### Marginal Citations

**M28** 1972 c. 70.

## 25 Application of Part II to England only.

In this Part, any reference to a local authority is to a local authority in England; and “local authority” has the same meaning as in the Local Government Act 1972 (see section 270).

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### PART III

#### POWERS OF PARISH COUNCILS AND COMMUNITY COUNCILS

*Transport etc.*

#### 26 Car-sharing schemes.

- (1) A parish council or community council may—
  - (a) establish and maintain any car-sharing scheme, or
  - (b) assist others to establish and maintain any car-sharing scheme, for the benefit of persons in the council’s area.
- (2) A parish or community council may impose any conditions they think fit—
  - (a) on the participation of persons in any scheme established and maintained by the council under subsection (1)(a) (including conditions requiring persons who receive fares under the scheme to contribute to the costs of establishing and maintaining it), or
  - (b) on the giving of any assistance under subsection (1)(b).
- (3) For the purposes of this section—
  - (a) a car-sharing scheme is a scheme for the provision of private cars for use on journeys in the course of which one or more passengers may be carried at separate fares, and
  - (b) the participants in a car-sharing scheme are those who make private cars available for use under the scheme or who are eligible for carriage as passengers under the scheme.
- (4) In this section—
  - (a) “private car” means a motor vehicle other than a public service vehicle, a licensed taxi, a licensed hire car or a motor cycle,
  - (b) “motor vehicle”, “public service vehicle” and “fares” have the same meaning as in section 1 of the <sup>M29</sup>Public Passenger Vehicles Act 1981, and
  - (c) “licensed taxi” and “licensed hire car” have the meaning given by section 13(3) of the <sup>M30</sup>Transport Act 1985.

#### Marginal Citations

**M29** 1981 c. 14.

**M30** 1985 c.67.

#### 27 Grants for bus services.

After section 106 of the Transport Act 1985 there is inserted—

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#### **“106A Grants for bus services.**

- (1) A parish council or community council may make grants to any body towards expenditure incurred or to be incurred by that body in connection with the operation of—
  - (a) a bus service appearing to the council to be wholly or mainly for the benefit of members of the public who are elderly or disabled; or
  - (b) a community bus service (as defined in section 22 of this Act).
- (2) The power in subsection (1) above may only be exercised if—
  - (a) the bus service benefits, or appears to the council likely to benefit, persons living in the council’s area, and
  - (b) a permit in relation to the use of the vehicle by means of which the service is, or is to be, provided has been granted to the body concerned under section 19 or 22 of this Act.
- (3) Grants under this section may be made in such cases and subject to such terms and conditions as the council think fit.”

#### **28 Taxi fare concessions.**

- (1) A parish council or a community council may enter into arrangements with any licensed taxi operator or licensed hire car operator under which—
  - (a) the operator grants fare concessions on local journeys specified in the arrangements to some or all of the persons falling within subsection (2), and
  - (b) the council reimburse the cost incurred in granting the concessions.
- (2) The persons falling within this subsection are persons who are—
  - (a) resident in the council’s area, and
  - (b) specified for the time being in or under subsection (7) of section 93 of the Transport Act 1985 as eligible to receive travel concessions under a scheme established under that section.
- (3) Arrangements made under subsection (1) may specify such other terms and conditions as the council think fit.
- (4) In subsection (1) “licensed taxi operator” and “licensed hire car operator” mean a person who provides a service for the carriage of passengers by licensed taxi (as defined by section 13(3) of the Transport Act 1985) or by licensed hire car (as so defined).

#### **29 Information about transport.**

- (1) A parish council or community council may investigate—
  - (a) the provision and use of, and the need for, public passenger transport services in their area,
  - (b) the use of and need for roads in their area, and
  - (c) the management and control of traffic in their area.

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(2) A parish council or community council may publicise information on public passenger transport services in their area or, on any conditions they think fit, assist others to do so.

(3) In this section “public passenger transport services” has the same meaning as in the <sup>M31</sup>Transport Act 1985 (see section 63(10)).

#### Marginal Citations

M31 1985 c. 67.

### 30 Traffic calming works.

After section 274 of the <sup>M32</sup>Highways Act 1980 there is inserted—

#### “274A Contributions by parish or community councils.

A parish council or community council may contribute towards any expenses incurred or to be incurred by a highway authority in constructing, removing or maintaining—

- (a) traffic calming works, or
- (b) other works (including signs or lighting) required in connection with traffic calming works,

if, in the opinion of the council, the expenditure is or will be of benefit to their area.”

#### Marginal Citations

M32 1980 c. 66.

### *Crime prevention*

### 31 Crime prevention.

(1) A parish council or community council may, for the detection or prevention of crime in their area—

- (a) install and maintain any equipment,
- (b) establish and maintain any scheme, or
- (c) assist others to install and maintain any equipment or to establish and maintain any scheme.

(2) In section 92 of the <sup>M33</sup>Police Act 1996 (grants by local authorities)—

- (a) in subsection (1)—
  - (i) for “or London borough” there is substituted “ London borough, parish or community ”, and
  - (ii) for “county, district, county borough or borough” there is substituted “ council’s area ”, and
- (b) in subsection (2), for “or district” there is substituted “ district or parish ”.

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### Marginal Citations

M33 1996 c. 16.

## PART IV

### GENERAL

#### 32 Financial provisions.

- (1) There is to be paid out of money provided by Parliament—
  - (a) any expenses of the Secretary of State incurred in consequence of this Act, and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) There is to be paid into the Consolidated Fund any increase attributable to this Act in the sums payable into that Fund under any other enactment.

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#### 33 Minor and consequential amendments and repeals.

- (1) Schedule 3 (which makes minor and consequential amendments) is to have effect.
- (2) The enactments shown in Schedule 4 (which include some that are spent) are repealed to the extent specified in the third column.

#### Commencement Information

- II** S. 33 wholly in force; s. 33 not in force at Royal Assent see s. 34; s. 33(1) in force for certain purposes at 1.4.1997 by S.I. 1997/1097, art. 2; s. 33(1) in force for certain further purposes at 19.5.1997 by S.I. 1997/1097, art. 3; s. 33(1) in force for further certain purposes at 1.12.1997 by S.I. 1997/2826, art. 2(c); s. 33 in force for certain purposes at 18.3.1998 by S.I. 1998/694, art. 2; s. 33 in force at 1.4.2000 insofar as not already in force by S.I. 1998/2329, art. 3(1)

#### 34 Commencement.

- (1) Subject to subsections (2) and (3), this Act is to 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 for different purposes.
- (2) Part II and paragraphs 4 to 10 and 21 of Schedule 3 are to come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) This Part (except section 33) is to come into force on the passing of this Act.

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- (4) An order under subsection (1) may make such transitional provisions and savings as the Secretary of State considers necessary or expedient in connection with any provision brought into force by the order.

#### Subordinate Legislation Made

- P1** S. 34(1) power partly exercised (26.3.1997): different dates appointed for specified provisions by [S.I. 1997/1097](#)  
 S. 34(1) power partly exercised (12.3.1998): 18.3.1998 appointed for specified provisions by [S.I. 1998/694](#), [art. 2](#)
- P2** S. 34(1)(4) power partly exercised (18.11.1997): 19.11.1997 appointed for specified provisions by [S.I. 1997/2752](#), [art. 2](#) (subject to savings in [art. 2\(2\)](#))  
 S. 31(1)(4) power partly exercised (21.11.1997): 1.12.1997 appointed for specified provisions by [S.I. 1997/2826](#), [art. 2](#) (subject to transitional provisions in [art. 3](#))  
 S. 31(1)(4) power partly exercised (18.9.1998): different dates appointed for specified provisions by [S.I. 1998/2329](#)

### 35 Short title and extent.

- (1) This Act may be cited as the Local Government and Rating Act 1997.
- (2) Sections 1 to 4, 9 to 31 and Schedule 1 extend to England and Wales only.
- (3) Sections 5 to 8 and Schedule 2 extend to Scotland only.
- (4) This Act does not extend to Northern Ireland.

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