



2010 CHAPTER 7

**PART 2**

LOCAL GOVERNMENT REORGANISATION

CHAPTER 2

CONTROL OF DISPOSALS AND CONTRACTS OF  
EXISTING COUNCILS<sup>[F1]</sup> AND THEIR FINANCES]

**Textual Amendments**

- F1** Words in Pt. 2 Ch. 2 added (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), ss. 116(2), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

**Control of disposals and contracts of existing councils<sup>[F2]</sup> and their finances]**

**10.—(1)** The Department may direct that, with effect from a specified date, an existing council shall not, without the written consent of <sup>[F3]</sup>its successor council or]a specified statutory transition committee—

- (a) dispose of any land if the consideration for the disposal exceeds a specified sum;
- (b) enter into any capital contract—
  - (i) under which the consideration payable by the council exceeds a specified sum; or
  - (ii) which includes a term allowing the consideration payable by the council to be varied;
- (c) enter into any non-capital contract under which the consideration payable by the council exceeds a specified sum, where—

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*Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010, CHAPTER 2. (See end of Document for details)*

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- (i) the period of the contract extends beyond a specified date; or
  - (ii) under the terms of the contract, that period may be extended beyond that date.
- [<sup>F4</sup>(d) borrow any sum exceeding a specified sum (or any sums exceeding in total any specified sum);
- (e) reduce any financial reserve of a specified description below a specified limit.]
- (2) In subsection (1)—
- “capital contract” means a contract as regards which the consideration payable by the council is capital expenditure;
  - “capital expenditure” means expenditure which falls to be capitalised in accordance with proper practices (within the meaning of Article 6(3) of the Local Government (Northern Ireland) Order 2005 (NI 18));
  - “non-capital contract” means a contract which is not a capital contract.
- (3) A direction under subsection (1)(b) or (c) may provide that the consent of [<sup>F5</sup>a successor council or]a specified statutory transition committee is not required in relation to a contract of a specified description.
- (4) A direction—
- (a) shall be in writing;
  - (b) may make different provision in relation to different matters for which consent is required;
  - (c) may be varied or revoked by a subsequent direction.
- (5) In this Chapter—
- “direction” means a direction under this section;
  - “specified”, in relation to a direction, means specified in the direction;
  - “statutory transition committee” means a committee established under section 15.
- (6) References in this Chapter to disposing of land include references to—
- (a) dealing with land in any way mentioned in section 45(3) of the Interpretation Act (Northern Ireland) 1954 (c. 33);
  - (b) entering into a contract to dispose of land;
  - (c) granting an option to acquire land.

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**Textual Amendments**

- F2** Words in s. 10 added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), **ss. 116(3)(a)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

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- F3** Words in s. 10(1) added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), [ss. 116\(3\)\(b\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F4** S. 10(1)(d)(e) added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), [ss. 116\(3\)\(c\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F5** Words in s. 10(3) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), [ss. 116\(3\)\(d\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

### Directions: supplementary

**11.—(1)** A consent for the purposes of a direction may be given—

- (a) in respect of a particular disposal or contract, or in respect of disposals or contracts of any description;
- (b) unconditionally or subject to conditions.

(2) The consent required by a direction is in addition to any consent required by any other statutory provision.

(3) Where the consideration or any of the consideration under a contract is not in money, the limits specified in a direction by virtue of section 10(1)(a) to (c) apply to the value of the consideration.

(4) Where—

- (a) a question arises in relation to a direction as to the value of any consideration, and
- (b) the existing council concerned and [<sup>F6</sup>its successor council or]the specified statutory transition committee fail to reach agreement,

the value is to be determined by the Department.

### Textual Amendments

- F6** Words in s. 11(4)(b) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), [ss. 116\(4\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

### Consideration to be taken into account for purposes of direction

**12.—(1)** In determining whether the limit specified by virtue of section 10(1) (a) is exceeded in the case of a disposal of land by an existing council, the consideration with respect to any other disposal of land made by the council after a specified date is to be taken into account.

(2) In determining whether the limit specified by virtue of section 10(1)(b) or (c) is exceeded in the case of a contract entered into by an existing council (“the contract in question”), the consideration payable by the council under any other relevant contract shall be taken into account.

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(3) For the purposes of subsection (2) a “relevant contract” means a contract which is either or both—

- (a) a contract entered into after a specified date by the council and the person with whom the contract in question is entered into;
- (b) a contract entered into after that date by the council which relates to the same or a similar description of matter as that to which the contract in question relates.

### **Referral to Department where consent refused or granted subject to conditions**

13.—(1) This section applies where—

- (a) the consent of [F7 a successor council or] a statutory transition committee is required in relation to a proposed disposal or contract of an existing council; and
- (b) that consent is refused by [F8 the successor council or] the statutory transition committee or is given subject to conditions.

(2) The existing council may refer the decision of [F9 the successor council or] the statutory transition committee to the Department.

(3) Where the decision F10 ... is referred to the Department under this section, the Department may—

- (a) confirm that decision;
- (b) if consent has been given subject to conditions, amend or revoke any such condition;
- (c) if consent has been refused, grant consent unconditionally or subject to conditions.

(4) The decision of the Department under this section in relation to any consent or conditions—

- (a) has effect for the purposes of this Chapter (except this section) as if made by the [F11 successor council or] statutory transition committee; and
- (b) is final.

#### **Textual Amendments**

- F7** Words in s. 13(1)(a) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), ss. 116\(5\)\(a\)\(i\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F8** Words in s. 13(1)(b) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), ss. 116\(5\)\(a\)\(ii\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F9** Words in s. 13(2) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), ss. 116\(5\)\(b\)](#), 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

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- F10** Words in s. 13(3) repealed (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), ss. 116(5)(c), 129, **Schs. 10** (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1 and words expressed to be repealed by Sch. 10 of said Act and SR 2015/209
- F11** Words in s. 13(4)(a) inserted (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), **ss. 116(5)(d)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

### **Contravention of direction**

- 14.—**(1) A disposal made in contravention of a direction is void.
- (2) A contract entered into by an existing council in contravention of a direction is not enforceable against a successor council.
- (3) A contract which apart from this subsection would be a certified contract for the purposes of Part 1 is not a certified contract for those purposes if it is entered into in contravention of a direction.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010, CHAPTER 2.