



# Local Government Act (Northern Ireland) 2014

## 2014 CHAPTER 8

An Act to amend the law relating to local government. [12th May 2014]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### PART 1 COUNCILS

#### **Names of councils**

1.—(1) The name of a council is the name of the district with the addition of the words “District Council”.

(2) Regulations may provide for the name of a council to be other than that provided in accordance with subsection (1).

(3) Subsection (1) is subject to the provisions of this Act and Part 4 of the Local Government Act (Northern Ireland) 1972.

#### **Constitutions of councils**

2.—(1) A council must prepare and keep up to date a document (referred to in this section as its constitution) which contains—

- (a) a copy of the council’s standing orders;

- (b) a copy of the Northern Ireland Local Government Code of Conduct for Councillors;
- (c) such information as the Department may direct; and
- (d) such other information (if any) as the council considers appropriate.

(2) A council must ensure that from 30th April 2015 copies of its constitution are available on its website and at its principal office for inspection by members of the public at all reasonable hours.

- (3) A council must supply a copy of its constitution to any person who—
- (a) requests a copy; and
  - (b) pays the council such reasonable fee as the council may determine.

## PART 2

### DISQUALIFICATIONS

#### **Disqualifications for being councillors**

3. A member of—
- (a) the Assembly;
  - (b) the House of Commons;
  - (c) the House of Lords;
  - (d) the legislature of any other country; or
  - (e) the European Parliament,

is disqualified for being a councillor.

#### **Disqualification of councillors for being independent members of policing and community safety partnerships**

4.—(1) The Justice Act (Northern Ireland) 2011 is amended as follows.

(2) In Schedule 1, in paragraph 9 (disqualifications) after sub-paragraph (2) insert—

“(2A) A person is disqualified for being an independent member of a PCSP if that person is a councillor.”.

(3) In Schedule 2, in paragraph 9 (disqualifications), after sub-paragraph (2) insert—

“(2A) A person is disqualified for being an independent member of a DPCSP if that person is a councillor.”.

### **Disqualification of holders of prescribed offices and employments**

5.—(1) In section 4(1)(a) of the Local Government Act (Northern Ireland) 1972 (disqualifications), for the words from “place of profit” to “council” there shall be substituted the words “employment, appointments to which are made by a council if it is a prescribed office or employment”.

(2) In section 4 of that Act, after subsection (1) insert—

“(1A) The Department must by 30th September 2014 make regulations under subsection (1)(a).”.

## **PART 3**

### **POSITIONS OF RESPONSIBILITY**

#### **Positions of responsibility**

6.—(1) In relation to a council the following are positions of responsibility—

- (a) chair of the council;
- (b) deputy chair of the council;
- (c) chair of any committee of the council;
- (d) deputy chair of any committee of the council;
- (e) member of a cabinet-style executive of the council;
- (f) external representative of the council.

(2) The clerk of a council must maintain a list of the council’s positions of responsibility.

(3) Schedule 1 (positions of responsibility) has effect.

(4) In this Act “external representative” means a person nominated by the council to serve as a member of any public body.

## **PART 4**

### **DISCHARGE OF FUNCTIONS**

#### *Arrangements for discharge of functions*

#### **Arrangements for discharge of functions of council**

7.—(1) A council may arrange for the discharge of any of its functions—

- (a) by a committee, a sub-committee or an officer of the council; or
- (b) by any other council.

(2) Subsection (1) is subject to any express provision contained in this Act or any Act passed after this Act.

(3) A council's functions with respect to—

- (a) making a district rate under the Rates (Northern Ireland) Order 1977;
- (b) making a determination under section 13(1) of the Local Government Finance Act (Northern Ireland) 2011 (affordable borrowing limit) and monitoring an amount determined under that subsection;
- (c) borrowing money; and
- (d) acquiring or disposing of land,

may only be discharged by the council itself.

(4) Where by virtue of this section any functions of a council may be discharged by a committee of the council, the committee may arrange for the discharge of any of those functions by—

- (a) a sub-committee; or
- (b) an officer of the council.

(5) Subsection (4) is subject to any contrary direction by the council.

(6) Where by virtue of this section any functions of a council may be discharged by a sub-committee of the council, the sub-committee may arrange for the discharge of any of those functions by an officer of the council.

(7) Subsection (6) is subject to any contrary direction by the council or the committee.

#### **Arrangements by one council for discharge of functions by another council**

**8.—**(1) A council may not under section 7(1)(b) arrange for the discharge of any of its functions by another council if, or to the extent that, that function is also a function of the other council and is the responsibility of the other council's executive.

(2) Arrangements made under section 7(1)(b) by a council ("Council A") with respect to the discharge of any of its functions cease to have effect with respect to that function if, or to the extent that—

- (a) Council A is operating or begins to operate executive arrangements, and that function becomes the responsibility of the executive of Council A; or
- (b) the council with which the arrangements are made ("Council B") is operating or begins to operate executive arrangements, that function is also a function of Council B and that function becomes the responsibility of Council B's executive.

(3) Subsections (1) and (2) do not affect arrangements made by virtue of section 25 (discharge of functions of and by another council).

(4) Subsection (5) applies where arrangements are in force under section 7(1)(b) for the discharge of the functions of a council (“Council A”) by another council (“Council B”).

(5) Council B may arrange for the discharge of those functions by a committee, sub-committee or officer of Council B.

(6) Subsections (4) to (7) of section 7 apply in relation to those functions as they apply in relation to the functions of Council B.

(7) Subsection (4) is subject to the terms of the arrangements.

(8) Arrangements made under section 7(1)(b) by a council for the discharge of its functions do not affect its responsibility for them.

#### **Arrangements for discharge of functions by councils jointly**

**9.**—(1) Two or more councils may discharge any of their functions jointly and subsections (2) to (6) apply where arrangements are in force for them to do so.

(2) The councils may also arrange for the discharge of those functions by—

- (a) a joint committee of the councils; or
- (b) an officer of one of the councils.

(3) Subsections (4) to (7) of section 7 apply in relation to those functions as they apply in relation to the functions of the individual councils.

(4) Any statutory provision relating to—

- (a) those functions; or
- (b) the councils by which or the areas in respect of which they are to be discharged,

has effect subject to any necessary modification in its application in relation to those functions and the councils by which and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(5) Arrangements made under subsection (2) by two or more councils with respect to the discharge of any of their functions cease to have effect with respect to that function if, or to the extent that, the function becomes the responsibility of an executive of any of the councils.

(6) Subsection (5) does not affect arrangements made by virtue of section 26 (joint exercise of functions).

#### **Exercise of functions not prevented by arrangements under this Part**

**10.** Any arrangements made by a council or committee under this Part for the discharge of any functions by a committee, sub-committee, officer or council do not prevent the council or committee by which the arrangements are made from exercising those functions.

*Appointment of committees etc.***Appointment of committees etc. for the purpose of discharging functions**

**11.**—(1) For the purpose of discharging any functions in pursuance of arrangements made under this Part—

- (a) a council may appoint a committee of the council; or
- (b) two or more councils may appoint a joint committee of those councils; or
- (c) any such committee may appoint one or more sub-committees.

(2) Subject to this Act, the number of members of a committee appointed under subsection (1), their term of office, and the area (if restricted) within which the committee is to exercise its authority must be fixed by the appointing council or councils or, in the case of a sub-committee, by the appointing committee.

(3) A committee appointed under subsection (1), other than a committee for regulating and controlling the finance of the council, may, subject to section 15, include persons who are not members of the appointing council or councils or, in the case of a sub-committee, the council or councils of which it is a sub-committee.

**Appointment of committee to advise on discharge of functions**

**12.**—(1) A council may appoint a committee, and two or more councils may join in appointing a committee, to advise—

- (a) the appointing council or councils; or
- (b) where the appointing council or each of the councils operates executive arrangements, any executive of that or those councils, or a sub-committee of that executive,

on any matter relating to the discharge of their functions.

(2) A committee appointed under subsection (1) may—

- (a) consist of such persons (whether members of the appointing council or councils or not) appointed for such term as may be determined by the appointing council or councils; and
- (b) appoint one or more sub-committees to advise the committee with respect to any such matter.

**Appointment of councillors to committees, etc.**

**13.** Schedule 2 (which makes provision relating to the appointment of councillors to committees, etc.) has effect.

### *Supplementary*

#### **Joint committees: further provisions**

**14.—**(1) The councils which appoint a joint committee must pay its expenses

- (a) in such proportions as they may agree upon; or
- (b) if they fail to agree, as may be determined by the Department.

(2) The Department, on the application of the councils which appoint a joint committee, may by order make provision for the purpose of—

- (a) constituting the joint committee a body corporate by the name specified in the order;
- (b) fixing the functions of the body corporate so constituted;
- (c) applying to that body any statutory provision, subject to the modifications (if any) specified in the order;
- (d) providing for the winding-up and dissolution of any body corporate so constituted.

(3) A member of a joint committee or a sub-committee of a joint committee who is not a member of a council has the same exemption from personal liability as a member of a council.

#### **Disqualification for membership of committees**

**15.—**(1) A person who is disqualified for being elected or being a member of a council is disqualified for being—

- (a) a member of any committee or sub-committee of that council;
- (b) a representative of that council on any joint committee; and
- (c) a member of a sub-committee of a joint committee on which that council is represented.

(2) Section 6 of the Local Government Act (Northern Ireland) 1972 (penalties for acting while disqualified) applies to members of a committee or sub-committee of a council who are not councillors as it applies to councillors.

(3) Subsection (1) applies whether the committee or joint committee is appointed under this Part or otherwise.

#### **Declaration required of persons who are not members of council**

**16.—**(1) A person who—

- (a) is a member of a committee appointed under section 11 or 12; but
- (b) is not a member of the council which appointed that committee,

must not act as a member of that committee until the person has made, and served on the clerk of the council, a declaration in the form set out in Schedule 3.

(2) This section applies to a joint committee and a sub-committee appointed under section 11 or 12 as it applies to a committee appointed under section 11 or 12 except that in relation to a joint committee—

- (a) the reference in subsection (1)(b) to the council which appointed that committee is to be taken as a reference to one of the councils which appointed that joint committee; and
- (b) the reference in subsection (1) to the clerk of the council is to be taken as a reference to the clerk of every council which appointed that joint committee.

### **Voting rights of persons who are not members of council**

**17.—**(1) A person who—

- (a) is a member of a committee appointed under section 11 or 12; but
- (b) is not a member of the council which appointed that committee,

must for all purposes be treated as a non-voting member of that committee.

(2) A person treated by virtue of this section as a non-voting member of any committee, is not entitled to vote at any meeting of the committee on any question which falls to be decided at that meeting.

(3) In this section any reference to voting includes a reference to making use of a casting vote.

(4) This section applies to a joint committee and a sub-committee appointed under section 11 or 12 as it applies to a committee appointed under section 11 or 12 except that in relation to a joint committee the reference in subsection (1) (b) to the council which appointed that committee is to be taken as a reference to one of the councils which appointed that joint committee.

### **Termination of membership on ceasing to be member of council**

**18.—**(1) Every member of a committee appointed under this Act who at the time of the appointment was a member of the appointing council, or one of the appointing councils, upon ceasing to be a member of that council also ceases to be a member of the committee.

(2) For the purposes of this section a member of a council is not to be deemed to have ceased to be a member of the council by reason of retirement if re-elected a member of the council not later than the day of that retirement.

(3) Subsection (1) is subject to subsection (2).



## PART 5

### PERMITTED FORMS OF GOVERNANCE

#### Permitted forms of governance

**19.**—(1) A council must operate a committee system unless the council decides to operate executive arrangements or prescribed arrangements.

(2) A decision to operate executive arrangements or prescribed arrangements must be taken by a qualified majority.

(3) Executive arrangements must conform with any provisions made by or under this Act which relate to such arrangements (see, in particular, Part 6).

(4) A committee system must conform with any provisions made by or under this Act which relate to such a system (see, in particular, Part 4).

(5) In this Part—

“executive arrangements” means arrangements by a council—

- (a) for and in connection with the creation and operation of an executive of the council, and
- (b) under which certain functions of the council are the responsibility of the executive;

“committee system” means arrangements made by a council, which does not operate executive arrangements or prescribed arrangements, for or in connection with the discharge of its functions in accordance with Part 4;

“prescribed arrangements” means such arrangements as may be prescribed in regulations made under section 20.

#### Power to prescribe additional permitted governance arrangements

**20.**—(1) Regulations may make provision prescribing arrangements that councils may operate for and in connection with the discharge of their functions.

(2) In particular, the regulations—

- (a) must include provision about how, and by whom, the functions of a council are to be discharged, and
- (b) may include provision enabling functions to be delegated.

(3) Regulations under this section may, in particular, include provision which applies or reproduces (with or without modifications) any provisions of, or any provision made under, Part 6.

(4) In considering whether or how to exercise the power in this section, the Department must have regard to any proposals made under subsection (5).

(5) A council may propose to the Department that the Department make regulations prescribing arrangements specified in the proposal if the council considers that the conditions in subsection (6) are met.

(6) The conditions are—

- (a) that the operation by the council of the proposed arrangements would be an improvement on the arrangements which the council has in place for the discharge of its functions at the time that the proposal is made to the Department;
- (b) that the operation by the council of the proposed arrangements would be likely to ensure that the decisions of the council are taken in an efficient, transparent and accountable way; and
- (c) that the arrangements, if prescribed under this section, would be appropriate for all councils to consider.

(7) A proposal under subsection (5)—

- (a) must describe the provision which the council considers should be made under subsection (2) in relation to the proposed arrangements; and
- (b) explain why the conditions in subsection (6) are met in relation to the proposed arrangements.

## PART 6

### EXECUTIVE ARRANGEMENTS

#### *Council executives*

#### **Council executives**

**21.—**(1) The executive of a council must take a form specified in subsection (2).

(2) The executive may consist of—

- (a) a committee of the council (“cabinet-style executive”); or
- (b) more than one committee of the council (“streamlined committee executive”).

(3) The chair and deputy chair of the council shall be non-voting members of the executive and shall be disregarded for the purpose of subsections (4) and (5).

(4) A cabinet-style executive must have—

- (a) at least six members; and
- (b) not more than ten members.

(5) Each committee in a streamlined committee executive must have—

- (a) at least six members; and
  - (b) not more than ten members.
- (6) Regulations may amend the number of members specified in subsection (4)(b) or (5)(b).

### *Executive functions*

#### **Functions which are the responsibility of an executive**

**22.—**(1) This section has effect for the purposes of determining which of the functions of a council that operates executive arrangements are the responsibility of an executive of the council under those arrangements.

(2) Subject to any provision made by this Act or by any statutory provision which is passed or made after the day on which this Act is passed, any function of the council which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the council under executive arrangements.

(3) Regulations may make provision for any function of a council specified in the regulations—

- (a) to be a function which is not to be the responsibility of an executive of the council under executive arrangements;
- (b) to be a function which may be the responsibility of such an executive under such arrangements; or
- (c) to be a function which—
  - (i) to the extent provided by the regulations, is to be the responsibility of such an executive under such arrangements, and
  - (ii) to the extent provided by the regulations, is not to be the responsibility of such an executive under such arrangements.

(4) Executive arrangements must make provision for any function of a council falling within subsection (3)(b)—

- (a) to be a function which is to be the responsibility of an executive of the council;
- (b) to be a function which is not to be the responsibility of such an executive; or
- (c) to be a function which—
  - (i) to the extent provided by the arrangements, is to be the responsibility of such an executive, and
  - (ii) to the extent provided by the arrangements, is not to be the responsibility of such executive.

(5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a council that operates executive arrangements—

- (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of the council; and
- (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.

(6) Regulations may specify cases or circumstances in which any function of a council which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the council to any extent is not to be the responsibility of such an executive to that or any particular extent.

(7) A function of a council may, by virtue of this section, be the responsibility of an executive of the council to any extent notwithstanding that Part 4, or any provision of that Part, does not apply to that function.

(8) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.

(9) In this section—

“action” in relation to any function includes any action (of whatever nature and whether or not separately identified by any statutory provision) involving—

- (a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,
- (b) the doing of anything incidental or conducive to the discharge of the function, or
- (c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b),

“function” means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

### **Functions of an executive: further provision**

**23.—**(1) Any reference in the following provisions of this Part to any functions which are, or are not, the responsibility of an executive of a council under executive arrangements is a reference to the functions of the council to the extent to which they are or (as the case may be) are not, by virtue of section 22, the responsibility of the executive under such arrangements.

(2) Any function which is the responsibility of an executive of a council under executive arrangements—

- (a) is to be regarded as exercisable by the executive on behalf of the council; and

(b) may be discharged only in accordance with any provisions made by or under this Part which apply to the discharge of any such function by that form of executive.

(3) Accordingly, any function which is the responsibility of an executive of a council under executive arrangements—

(a) may not be discharged by the council;

(b) is not to be a function to which section 7(1) applies; and

(c) may be the subject of arrangements made under section 9 only if permitted by any provision made under section 26.

(4) Subject to any provision made under subsection (5), any function of a council that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the council is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Part.

(5) Regulations may make provision with respect to the discharge of any function of a council that operates executive arrangements which, under those arrangements, is not the responsibility of the executive of the council (including provision disapplying Part 4 (discharge of functions) or any provision of that Part).

(6) In this section “function” has the same meaning as in section 22.

#### *Allocation and discharge of functions*

#### **Allocation and discharge of functions**

**24.—**(1) Where executive arrangements make provision for a streamlined committee executive, they must make provision with respect to the allocation of functions which are the responsibility of the executive among its committees.

(2) Where executive arrangements make provision for a cabinet-style executive, the executive may arrange for the discharge of any of its functions by—

(a) a sub-committee of that executive; or

(b) an officer of the council.

(3) Where executive arrangements make provision for a streamlined committee executive, any committee of that executive may arrange for the discharge of any of the committee’s functions by—

(a) a sub-committee of that committee; or

(b) an officer of the council.

(4) Where by virtue of this section any functions may be discharged by a sub-committee, the sub-committee may arrange for the discharge of any of those functions by an officer of the council.

(5) Any arrangements made by virtue of this section by an executive, committee or sub-committee for the discharge of any functions by a sub-committee or officer are not to prevent the executive, committee or sub-committee by which the arrangements are made from exercising those functions.

### **Discharge of functions of and by another council**

**25.—**(1) Regulations may make provision for or in connection with enabling an executive of a council to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—

- (a) by another council; or
- (b) by the executive of another council.

(2) Regulations may make provision for or in connection with enabling a council to arrange for the discharge of any of its functions by the executive of another council.

(3) The reference in subsection (2) to the functions of a council, in a case where the council is operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the council's executive.

(4) Regulations under subsection (1) or (2) may, in particular, include provision—

- (a) requiring, in the case of arrangements for the discharge of any functions by the executive of another council, the approval of the other council of which the executive is part to such arrangements;
- (b) which, in the case of arrangements for the discharge of any functions by another council, enables any of those functions to be delegated;
- (c) which, in the case of arrangements for the discharge of any functions by the executive of another council, enables any of those functions to be delegated.

(5) The provisions made under subsection (4)(b) may, in particular, apply or reproduce (with or without modifications) any provisions of sections 7 and 10.

(6) The provision made under subsection (4)(c) may, in particular, apply or reproduce (with or without modifications) any provisions of section 24.

### **Joint exercise of functions**

**26.—**(1) Regulations may make provision for or in connection with permitting arrangements under section 9 where any of the functions which are

the subject of the arrangements are the responsibility of an executive of a council under executive arrangements.

(2) The provision which may be made under subsection (1) includes, in particular, provision—

- (a) as to the circumstances in which the executive is to be a party to the arrangements in place of the council;
- (b) as to the circumstances in which—
  - (i) the council, and
  - (ii) the executive,are both to be parties to the arrangements;
- (c) as to the circumstances in which any functions of the council under section 7(4) or (6) or 11(1)(b), (2) or (3), so far as they relate to any joint committee falling within section 9(2)(a), are instead to be exercised by the executive;
- (d) as to the circumstances in which any functions of the council under section 7(4) or (6) or 11(1)(b), (2) or (3), so far as they relate to any such joint committee, are to be exercised by the council;
- (e) as to the persons (including officers of the council) who may be appointed to any such joint committee by the executive.

#### *Overview and scrutiny committees*

#### **Overview and scrutiny committees: functions**

**27.—**(1) Executive arrangements by a council must include provision for the appointment by the council of one or more committees of the council (referred to in this Part as overview and scrutiny committees).

(2) Executive arrangements by a council must ensure that its overview and scrutiny committee has power (or its overview and scrutiny committees have power between them)—

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive;
- (b) to make reports or recommendations to the council or the executive with respect to the discharge of any functions which are the responsibility of the executive;
- (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive;

(d) to make reports or recommendations to the council or the executive with respect to the discharge of any functions which are not the responsibility of the executive;

(e) to make reports or recommendations to the council or the executive on matters which affect the council's district or the inhabitants of that district.

(3) For the purpose of dealing with a matter of concern to more than one overview and scrutiny committee of the council, standing orders may provide for the council to appoint an ad hoc overview and scrutiny committee or for the relevant committees to sit concurrently.

(4) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—

(a) to recommend that the decision be reconsidered by the person who made it; or

(b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the council.

(5) An overview and scrutiny committee of a council may not discharge any functions other than its functions under this section and sections 28 to 33.

#### **Overview and scrutiny committees: supplementary provision**

**28.—**(1) An overview and scrutiny committee of a council—

(a) may appoint one or more sub-committees, and

(b) may arrange for the discharge of any of its functions by any such sub-committee.

(2) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (1)(b).

(3) An overview and scrutiny committee of a council, or a sub-committee of such a committee, may not include a member of the council's executive.

(4) An overview and scrutiny committee of a council, or any sub-committee of such a committee, may include persons who are not councillors.

(5) Persons who are not members of the council are not entitled to vote at any meeting of its overview and scrutiny committee, or any sub-committee of such a committee, on any question which falls to be decided at that meeting, unless permitted to do so under Schedule 4 (voting rights of co-opted members); and that Schedule shall have effect.

(6) Section 11(2) and sections 16 and 18 apply to an overview and scrutiny committee of a council, or a sub-committee of such a committee, as they apply to a committee appointed under section 11.

(7) An overview and scrutiny committee of a council or a sub-committee of such a committee—



(a) may require members of the executive, and officers of the council, to attend before it to answer questions; and

(b) may invite other persons to attend meetings of the committee.

(8) It is the duty of any member or officer mentioned in paragraph (a) of subsection (7) to comply with any requirement mentioned in that paragraph.

(9) A person is not obliged by subsection (8) to answer any question which the person would be entitled to refuse to answer in or for the purposes of proceedings in a court in Northern Ireland.

(10) In exercising, or deciding whether to exercise, any of its functions, an overview and scrutiny committee of a council, or a sub-committee of such a committee, must have regard to any guidance issued by the Department.

### **Scrutiny officers**

**29.—**(1) A council must designate one of its officers to discharge the functions mentioned in subsection (2).

(2) Those functions are—

(a) to promote the role of the council’s overview and scrutiny committee or committees;

(b) to provide support to the council’s overview and scrutiny committee or committees and the members of that committee or those committees;

(c) to provide support and guidance to—

(i) councillors;

(ii) members of the executive of the council; and

(iii) officers of the council,

in relation to the functions of the council’s overview and scrutiny committee or committees.

(3) An officer designated by the council under this section is to be known as the council’s “scrutiny officer”.

(4) A council must not designate under this section—

(a) the clerk of the council;

(b) the chief financial officer of the council.

(5) In this section references to an overview and scrutiny committee include any sub-committee of that committee.

### **Reference of matters to overview and scrutiny committee etc.**

**30.—**(1) Executive arrangements by a council must include provision which

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- (a) enables any member of an overview and scrutiny committee of the council to refer to the committee any matter which is relevant to the functions of the committee;
- (b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee; and
- (c) enables any councillor to refer to an overview and scrutiny committee of the council of which the councillor is not a member any matter which is relevant to the functions of the committee and is not a prescribed matter.

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables the person to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

(3) In considering whether to exercise the power which a councillor has by virtue of subsection (1)(c) in any case, the councillor must have regard to any guidance issued by the Department.

#### **Dealing with references under section 30(1)(c)**

**31.—**(1) This section applies where a matter is referred to an overview and scrutiny committee by a councillor in accordance with provision made pursuant to section 30(1)(c).

(2) In considering whether or not to exercise any of its powers under section 27(2) in relation to the matter, the committee may have regard to any representations made by the councillor as to why it would be appropriate for the committee to exercise any of its powers under section 27(2) in relation to the matter.

(3) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the councillor of—

- (a) its decision; and
- (b) the reasons for it.

(4) The committee must provide the councillor with a copy of any report or recommendations which it makes to the council or the executive under section 27(2) in relation to the matter.

(5) Subsection (4) is subject to section 33 (confidential and exempt information).

#### **Duty of council or executive to respond to overview and scrutiny committee**

**32.—**(1) This section applies where an overview and scrutiny committee of a council makes a report or recommendations to the council or the executive.

(2) The overview and scrutiny committee may publish the report or recommendations.

(3) The overview and scrutiny committee must by notice in writing require the council or executive—

- (a) to consider the report or recommendations;
- (b) to respond to the overview and scrutiny committee indicating what (if any) action the council, or the executive, proposes to take;
- (c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response; and
- (d) if the overview and scrutiny committee provided a copy of the report or recommendations to a councillor under section 31(4), to provide the councillor with a copy of the response.

(4) The notice served under subsection (3) must require the council or executive to comply with it within two months beginning with the date on which the council or executive received the report or recommendations or (if later) the notice unless, in accordance with standing orders, the overview and scrutiny committee deems the notice to require a prompt response in which case the notice must require the council or the executive to comply within one month.

(5) It is the duty of a council or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.

(6) Subsections (2) and (5) are subject to section 33 and to any provision made under section 35(3) (confidential and exempt information).

(7) In this section—

- (a) references to an overview and scrutiny committee include references to a sub-committee of such a committee;
- (b) references to “the council” or “the executive”, in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the council by which the overview and scrutiny committee is established or to the executive of that council.

**Publication etc. of reports, recommendations and responses: confidential and exempt information**

**33.—**(1) This section applies to—

- (a) the publication under section 32 of any document comprising—
  - (i) a report or recommendations of an overview and scrutiny committee,  
or
  - (ii) a response of a council to any such report or recommendations; and

- (b) the provision of a copy of such a document to a councillor under section 31(4) or section 32 by an overview and scrutiny committee or a council.
- (2) The overview and scrutiny committee or the council, in publishing the document—
- (a) must exclude any confidential information; and
  - (b) may exclude any relevant exempt information.
- (3) The overview and scrutiny committee or the council, in providing a copy of the document to a councillor, may exclude any confidential information or relevant exempt information.
- (4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the council, in publishing, or providing a copy of, the document—
- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information; and
  - (b) must do so if, in consequence of excluding the information, the document published, or a copy provided, would be misleading or not reasonably comprehensible.
- (5) Subsection (6) applies if, by virtue of subsection (2), (3) or (4), an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—
- (a) excludes information; or
  - (b) replaces part of the report or recommendations with a summary.
- (6) The overview and scrutiny committee is nevertheless to be taken for the purposes of section 32(3)(c) or (d) to have published or provided a copy of the report or recommendations.
- (7) In this section references to relevant exempt information are references to—
- (a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 42(4) which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered; and
  - (b) in relation to a response of the council, exempt information of a description specified in such a resolution of the council which applied to the proceedings, or part of the proceedings, at any meeting of the council at which the report or response was, or recommendations were, considered.
- (8) In this section—

“confidential information” has the meaning given by section 42(3) (admission to meetings of councils);

“exempt information” has the meaning given by section 51.

(9) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.

*Meetings and access to information etc.*

**Meetings and access to information etc.**

**34.—**(1) Meetings are to be open to the public or held in private.

(2) Subject to regulations under section 35(4), it is for a council executive to decide which meetings are to be open to the public and which are to be held in private.

(3) A written record must be kept of prescribed decisions made at meetings which are held in private.

(4) Written records under subsection (3) must include reasons for the decisions to which they relate.

(5) In this section “meetings” means meetings of an executive or any sub-committee of an executive.

**Meetings and access to information etc.: further provision and regulations**

**35.—**(1) Written records under section 34(3), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations.

(2) Regulations under subsection (1) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.

(3) Regulations may make provision—

(a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private);

(b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private;

(c) for or in connection with requiring written records falling within paragraph (b) to include reasons;

(d) for or in connection with requiring any such written records to be made available to members of the public;

- (e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.
- (4) Regulations may make provision—
- (a) as to the circumstances in which meetings falling within section 34, or particular proceedings at such meetings, must be open to the public;
  - (b) as to the circumstances in which meetings falling within section 34, or particular proceedings at such meetings, must be held in private;
  - (c) with respect to the information which is to be included in written records kept by virtue of this section or section 34;
  - (d) with respect to the reasons which are to be included in any such written records;
  - (e) with respect to the persons who are to produce, keep or make available any such written records;
  - (f) for or in connection with requiring any such written records to be made available to members of councils or to overview and scrutiny committees or sub-committees;
  - (g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of councils or to overview and scrutiny committees or sub-committees;
  - (h) for or in connection with requiring information to be made available by electronic means;
  - (i) for or in connection with conferring rights on members of the public or members of councils, overview and scrutiny committees or sub-committees in relation to records or documents;
  - (j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section or section 34.
- (5) Regulations may make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a council executive to be made available to members of the public or members of the council.
- (6) The provision which may be made under subsection (5) includes provision—
- (a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection;
  - (b) as to the way or form in which prescribed information is to be made available.
- (7) Regulations may make provision which, in relation to meetings falling within—

- (a) section 34; or
- (b) subsection (3)(a),

applies or reproduces (with or without modifications) any provisions of Part 8.

(8) Regulations may make provision in relation to—

- (a) the publication by executives of councils under section 32 of responses to reports or recommendations of overview and scrutiny committees and their sub-committees; or
- (b) the provision by executives of councils under section 32 of copies of such responses,

which applies or reproduces (with or without modifications) any provisions of section 33 (confidential and exempt information).

## PART 7

### MEETINGS AND PROCEEDINGS

#### *General*

#### **Meetings and proceedings**

**36.** Schedule 5 (which makes provision as respects meetings and proceedings of councils and their committees) has effect subject to this Part.

#### *Standing orders*

#### **Standing orders**

**37.—**(1) A council must make standing orders for the regulation of the proceedings and business of the council.

(2) A council may vary or revoke standing orders.

(3) Subsections (1) and (2) are subject to section 38 and the other provisions of this Act.

(4) This section applies to a joint committee as it applies to a council.

#### **Regulations about standing orders**

**38.—**(1) Regulations may require councils, subject to such variations as may be authorised by the regulations—

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

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

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

(a) to requisition meetings of the council or of any of its committees or sub-committees;

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

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

(3) Regulations under subsection (1) may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Department considers appropriate.

(4) Regulations under subsection (1) may make similar provisions in relation to joint committees as are made in relation to councils.

### *Decision-making*

#### **Simple majority**

**39.**—(1) Subject to this Act and any other statutory provision, every decision of a council must be taken by a simple majority.

(2) In the case of an equality of votes in relation to a decision which must be taken by a simple majority the person presiding has a second or casting vote.

(3) In this section “simple majority” in relation to a decision of a council means more than half the votes of the members present and voting on the decision.

(4) This section applies to a committee or sub-committee of a council and to a joint committee or a sub-committee of a joint committee as it applies to a council.

#### **Qualified majority**

**40.**—(1) Standing orders must specify decisions which are to be taken by a qualified majority.



(2) In this Act “qualified majority” in relation to a decision of a council means 80 per cent. of the votes of the members present and voting on the decision.

(3) If the figure arrived at under subsection (2) is not a whole number, the figure must be rounded up to the next whole number.

(4) Regulations may amend the percentage mentioned in subsection (2).

(5) This section applies to a committee or sub-committee of a council and to a joint committee or a sub-committee of a joint committee as it applies to a council.

### **Power to require decisions to be reconsidered**

**41.**—(1) Standing orders must make provision requiring reconsideration of a decision if 15 per cent. of the members of the council (rounded up to the next highest whole number if necessary) present to the clerk of the council a requisition on either or both of the following grounds—

- (a) that the decision was not arrived at after a proper consideration of the relevant facts and issues;
- (b) that the decision would disproportionately affect adversely any section of the inhabitants of the district.

(2) Standing orders must require the clerk of the council to obtain an opinion from a practising barrister or solicitor before reconsideration of a decision on a requisition made wholly or partly on the ground mentioned in subsection (1)(b).

(3) Regulations may amend the percentage mentioned in subsection (1) and the process by which a legal opinion is obtained in subsection (2).

(4) In this section—

“decision” means a decision of the council or a committee of the council and includes a decision to make a recommendation;

“reconsideration” means—

- (a) in the case of a decision of the council, reconsideration by the council;
- (b) in any other case, consideration by the council or any specified committee of the council (whether or not the decision is a decision of that committee);

“section”, in relation to the inhabitants of a district, means a section of a specified description;

“specified” means specified in standing orders.

## PART 8

### ACCESS TO MEETINGS AND DOCUMENTS

#### **Admission to meetings of councils**

**42.—**(1) A meeting of a council must be open to the public except to the extent that they are excluded (whether during the whole or part of the proceedings) under subsection (2) or by resolution under subsection (4).

(2) The public must be excluded from a meeting of a council during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that, if members of the public were present during that item, confidential information would be disclosed to them in breach of the obligation of confidence; and nothing in this Part authorises or requires the disclosure of confidential information in breach of the obligation of confidence.

(3) For the purposes of subsection (2), “confidential information” means—

- (a) information provided to the council by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
- (b) information the disclosure of which to the public is prohibited by or under any statutory provision or by the order of a court;

and, in either case, the reference to the obligation of confidence is to be construed accordingly.

(4) A council may by resolution exclude the public from a meeting during an item of business whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during that item there would be disclosure to them of exempt information, as defined in section 51.

(5) A resolution under subsection (4) must—

- (a) identify the proceedings, or the part of the proceedings, to which it applies; and
- (b) state the description, in terms of Schedule 6, of the exempt information giving rise to the exclusion of the public,

and where such a resolution is passed this section does not require the meeting to be open to the public during proceedings to which the resolution applies.

(6) The following provisions apply in relation to a meeting of a council—

- (a) public notice of the time and place of the meeting must be given by posting it at the offices of the council five days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened;

- (b) while the meeting is open to the public, the council does not have power to exclude members of the public from the meeting; and
  - (c) while the meeting is open to the public, duly accredited representatives of newspapers attending the meeting for the purpose of reporting the proceedings for those newspapers must, so far as practicable, be afforded reasonable facilities for taking their report and, unless the meeting is held in premises not belonging to the council or not on the telephone, for telephoning the report at their own expense.
- (7) Nothing in this section requires a council to permit—
- (a) the taking of photographs of any proceedings; or
  - (b) the use of any means to enable persons not present to see or hear any proceedings (whether at the time or later); or
  - (c) the making of any oral report on any proceedings as they take place.
- (8) But a council shall permit during proceedings which are open to the public the use of social media by councillors, members of the public or journalists, to the extent that its use does not disrupt proceedings.
- (9) This section is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

### **Access to agenda and connected reports**

**43.—**(1) Copies of the agenda for a meeting of a council and, subject to subsection (2), copies of any report for the meeting must be open to inspection by members of the public at the offices of the council in accordance with subsection (3).

(2) If the clerk of the council thinks fit, there may be excluded from the copies of reports provided in pursuance of subsection (1) the whole of any report which, or any part which, relates only to items during which, in the opinion of the clerk, the meeting is likely not to be open to the public.

(3) Any document which is required by subsection (1) to be open to inspection must be open to inspection at least five days before the meeting, except that—

- (a) where the meeting is convened at shorter notice, the copies of the agenda and reports must be open to inspection from the time the meeting is convened, and
- (b) where an item is added to an agenda copies of which are open to inspection by the public, copies of the item (or of the revised agenda), and the copies of any report for the meeting relating to the item, must be open to inspection from the time the item is added to the agenda;

but nothing in this subsection requires copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the council.

(4) An item of business may not be considered at a meeting of a council unless either—

- (a) a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public in pursuance of subsection (1) for at least five days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; or
- (b) by reason of special circumstances, which must be specified in the minutes, the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

(5) Where by virtue of subsection (2) the whole or any part of a report for a meeting is not open to inspection by the public under subsection (1)—

- (a) every copy of the report or of the part must be marked “Not for publication”; and
- (b) there must be stated on every copy of the whole or any part of the report the description, in terms of Schedule 6, of the exempt information by virtue of which the council is likely to exclude the public during the item to which the report relates.

(6) Where a meeting of a council is required by section 42 to be open to the public during the proceedings or any part of them there must be made available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and, subject to subsection (8), of the reports for the meeting.

(7) There must, on request and on payment of postage or other necessary charge for transmission, be supplied for the benefit of any newspaper—

- (a) a copy of the agenda for a meeting of a council and, subject to subsection (8), a copy of each of the reports for the meeting;
- (b) such further statements or particulars, if any, as are necessary to indicate the nature of the items included in the agenda; and
- (c) if the clerk of the council thinks fit in the case of any item, copies of any other documents supplied to members of the council in connection with the item.

(8) Subsection (2) applies in relation to copies of reports provided in pursuance of subsection (6) or (7) as it applies in relation to copies of reports provided in pursuance of subsection (1).

#### **Inspection of minutes and other documents after meetings**

**44.—**(1) After a meeting of a council the following documents must be open to inspection by members of the public at the offices of the council until the expiration of the period of six years from the date of the meeting—

- (a) the minutes, or a copy of the minutes, of the meeting, excluding so much of the minutes of proceedings during which the meeting was not open to the public as discloses exempt information;
- (b) where applicable, a summary under subsection (2);
- (c) a copy of the agenda for the meeting; and
- (d) a copy of so much of any report for the meeting as relates to any item during which the meeting was open to the public.

(2) Where, in consequence of the exclusion of parts of the minutes which disclose exempt information, the document open to inspection under subsection (1)(a) does not provide members of the public with a reasonably fair and coherent record of the whole or part of the proceedings, the clerk of the council must make a written summary of the proceedings or the part, as the case may be, which provides such a record without disclosing the exempt information.

(3) A council must as soon as is reasonably practicable put on its website any document which is open to inspection under subsection (1)(a).

#### **Inspection of background papers**

**45.**—(1) Subject, in the case of section 44(1), to subsection (2), if and so long as copies of the whole or part of a report for a meeting of a council are required by section 43(1) or 44(1) to be open to inspection by members of the public—

- (a) those copies must each include a copy of a list, compiled by the clerk of the council, of the background papers for the report or the part of the report; and
- (b) at least one copy of each of the documents included in that list must also be open to inspection at the offices of the council.

(2) Subsection (1) does not require a copy of any document included in the list, to be open to inspection after the expiration of the period of four years from the date of the meeting.

(3) Where a copy of any of the background papers for a report is required by subsection (1) to be open to inspection by members of the public, the copy must be taken for the purposes of this Part to be open to inspection if arrangements exist for its production to members of the public as soon as is reasonably practicable after the making of a request to inspect the copy.

(4) Nothing in this section—

- (a) requires any document which discloses exempt information to be included in the list referred to in subsection (1); or
- (b) without prejudice to the generality of subsection (2) of section 42, requires or authorises the inclusion in the list of any document which, if open to

inspection by the public, would disclose confidential information in breach of the obligation of confidence, within the meaning of that subsection.

(5) For the purposes of this section the background papers for a report are those documents relating to the subject matter of the report which—

- (a) disclose any facts or matters on which, in the opinion of the clerk of the council, the report or an important part of the report is based; and
- (b) have, in the opinion of the clerk of the council, been relied on to a material extent in preparing the report,

but do not include any published works.

(6) A council must put on its website any document which is open to inspection under subsection (1).

#### **Application to committees and sub-committees**

**46.—**(1) Sections 42 to 45 apply in relation to a committee or sub-committee of a council as they apply in relation to a council.

(2) In the application by virtue of this section of sections 42 to 45 in relation to a committee or sub-committee—

- (a) section 42(6)(a) is complied with if the notice is given by posting it at the time there mentioned at the offices of the council and, if the meeting of the committee or sub-committee is to be held at premises other than the offices of the council, at those premises;
- (b) for the purposes of section 42(6)(c), premises belonging to a council are treated as belonging to the committee or sub-committee;
- (c) for the purposes of sections 43(1), 44(1) and 45(1), offices of the council are treated as offices of the committee or sub-committee; and
- (d) for the purposes of sections 43(3) and 44(6) the council's website is treated as the website of the committee or sub-committee.

(3) Any reference in this Part to a committee or sub-committee of a council includes—

- (a) a joint committee; or
- (b) a sub-committee of a joint committee.

#### **Audio recording of meetings**

**47.—**(1) So far as is reasonably practicable, a council must make an audio recording of so much of any meeting of the council as is open to the public and the recording must be available to the public at the offices of the council until the expiration of the period of six years from the date of the meeting and published on the council website until the expiration of the period of two years from the date of the meeting.

(2) This section does not apply in relation to meetings of any committee or sub-committee of the council.

### **Additional rights of access to documents for members of councils**

**48.—**(1) Any document which is in the possession or under the control of a council and contains material relating to any business to be transacted at a meeting of the council or a committee or sub-committee of the council must, subject to subsections (2) to (4), be open to inspection by any member of the council.

(2) Subsection (1) does not require the document to be open to inspection if it appears to the clerk of the council that it discloses exempt information.

(3) But subsection (1) does require (despite subsection (2)) the document to be open to inspection if the information is information of a description for the time being falling within—

- (a) paragraph 3 of Schedule 6 (except to the extent that the information relates to any terms proposed or to be proposed by or to the council in the course of negotiations for a contract); or
- (b) paragraph 6 of Schedule 6.

(4) In subsection (3), “the council” has the meaning given in paragraph 10(2) of Schedule 6.

(5) The Department may by order amend subsections (2) to (4)—

- (a) by adding to the descriptions of exempt information to which those subsections refer for the time being; or
- (b) by removing any description of exempt information to which those subsections refer for the time being.

(6) The accounts of a council must be open to inspection by any member of the council and nothing in subsections (1) to (5) affects the right conferred by this subsection on a member of the council.

(7) The rights conferred by this section on a member of a council are in addition to any other rights which the member may have apart from this section.

### **Councils to publish additional information**

**49.—**(1) A council must maintain a register stating—

- (a) the name and address of every member of the council; and
- (b) in respect of every committee or sub-committee of the council—
  - (i) the members of the council who are members of the committee or sub-committee or who are entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them;

- (ii) the name and address of every other person who is a member of the committee or sub-committee or who is entitled, in accordance with any standing orders relating to the committee or sub-committee, to speak at its meetings or any of them otherwise than in the capacity of an officer of the council;
- (iii) the functions in relation to the committee or sub-committee of every person falling within sub-paragraph (i) who is not a member of the committee or sub-committee and of every person falling within sub-paragraph (ii).

(2) A council must maintain a list—

- (a) specifying those powers of the council which are exercisable by officers of the council in pursuance of arrangements made under this Act or any other statutory provision for their discharge by those officers; and
- (b) stating the title of the officer by whom each of the powers so specified is so exercisable;

but this subsection does not require a power to be specified in the list if the arrangements for its discharge by the officer are made for a specified period not exceeding six months.

(3) There must be kept at the offices of a council a written summary of the rights—

- (a) to attend meetings of a council and of committees and sub-committees of a council; and
- (b) to inspect and copy documents and to be furnished with documents,

which are conferred by this Part and such other statutory provisions as the Department may by order specify.

(4) The register maintained under subsection (1), the list maintained under subsection (2) and the summary kept under subsection (3) must be open to inspection by the public at the offices of the council.

### **Supplemental provisions and offences**

**50.—**(1) A document directed by any provision of this Part to be open to inspection must be open to inspection at all reasonable hours and—

- (a) in the case of a document open to inspection by virtue of section 45(1), upon payment of such reasonable fee as may be required for the facility; and
- (b) in any other case, without payment.

(2) Where a document is open to inspection by a person (“P”) under any provision of this Part, P may, subject to subsection (3)—

- (a) make copies of or extracts from the document; or



(b) require the person having custody of the document to supply a photographic copy of or of extracts from the document, upon payment of such reasonable fee as may be required for the facility.

(3) Subsection (2) does not require or authorise the doing of any such act which infringes the copyright in any work except that, where the owner of the copyright is a council, nothing done in pursuance of that subsection constitutes an infringement of the copyright.

(4) If, without reasonable excuse, a person (“C”) having the custody of a document which is required by section 43(1) or 44(1) to be open to inspection by the public—

- (a) intentionally obstructs any person exercising a right conferred by this Part to inspect, or to make a copy of or extracts from the document; or
- (b) refuses to furnish copies to any person entitled to obtain them under any provision of this Part,

C is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Where any accessible document for a meeting to which this subsection applies—

- (a) is supplied to, or open to inspection by, a member of the public; or
- (b) is supplied for the benefit of any newspaper, in pursuance of section 43(7),

the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be made with malice.

(6) Subsection (5) applies to any meeting of a council and any meeting of a committee or sub-committee of a council; and, for the purposes of that subsection, the “accessible documents” for a meeting are the following—

- (a) any copy of the agenda or of any item included in the agenda for the meeting;
- (b) any such further statements or particulars for the purpose of indicating the nature of any item included in the agenda as are mentioned in section 43(7)(b);
- (c) any copy of a document relating to such an item which is supplied for the benefit of a newspaper in pursuance of section 43(7)(c);
- (d) any copy of the whole or part of a report for the meeting;
- (e) any copy of the whole or part of any background papers for a report for the meeting, within the meaning of section 45.

(7) The rights conferred by this Part to inspect, copy and be provided with documents are in addition, and without prejudice, to any such rights conferred by or under any other statutory provision.

**Exempt information and power to vary Schedule 6**

**51.**—(1) The descriptions of information which are, for the purposes of this Part, exempt information are those specified in Part 1 of Schedule 6, but subject to any qualifications contained in Part 2 of that Schedule; and Part 3 has effect for the interpretation of Parts 1 to 3 of that Schedule.

(2) The Department may by order vary Schedule 6 by adding to it any description or other provision or by deleting from it or varying any description or other provision for the time being specified or contained in it.

(3) The Department may exercise the power conferred by subsection (2) by amending any Part of Schedule 6, with or without amendment of any other Part.

**Interpretation and application of this Part**

**52.**—(1) In this Part—

“copy”, in relation to any document, includes a copy made from a copy;

“exempt information” has the meaning given by section 51;

“information” includes an expression of opinion, any recommendations and any decision taken;

“newspaper” includes—

(a) a news agency which systematically carries on the business of selling and supplying reports or information to newspapers; and

(b) any organisation which is systematically engaged in collecting news—

(i) for sound or television broadcasts; or

(ii) for inclusion in programmes to be included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service.

(2) The Department may by order amend sections 42(6)(a) and 43(3) and (4) (a) so as to substitute for each reference to five days such greater number of days as may be specified in the order.

**PART 9****CONDUCT OF COUNCILLORS***Code of conduct***Code of conduct**

**53.**—(1) The Department may issue a code of conduct as regards the conduct which is expected of councillors (to be known as the Northern Ireland Local Government Code of Conduct for Councillors).

(2) The code of conduct must specify principles which are to govern the conduct of councillors.

(3) The principles may be—

- (a) principles which are to apply to a person at all times;
- (b) principles which are to apply to a person otherwise than at all times.

(4) The code of conduct may include—

- (a) provisions which are to apply to a person at all times;
- (b) provisions which are to apply to a person otherwise than at all times.

(5) The Department must not issue a code of conduct under subsection (1) unless a draft of the code of conduct has been laid before, and approved by resolution of, the Assembly.

(6) The Department may revise or withdraw the code of conduct.

(7) The Department must not issue a revised code of conduct under subsection (6) unless a draft of the revised code of conduct has been laid before, and approved by resolution of, the Assembly.

(8) The Department must not exercise its powers under subsection (1) or (6) unless it has consulted the local government auditor, the Commissioner, councils, and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of councillors;
- (c) such associations or bodies representative of officers of councils; and
- (d) such other bodies or persons,

as appear to the Department to be appropriate.

(9) If—

- (a) the Assembly by resolution approves a draft code of conduct under subsection (5) or (7); and
- (b) the draft does not state when the code of conduct is to come into force,

the Department must add a statement specifying when the code of conduct comes into force.

### *Guidance*

#### **Guidance**

**54.** The Commissioner may—

- (a) issue guidance on matters relating to the conduct of councillors; and
- (b) arrange for the guidance to be made public.

### *Investigations*

#### **Investigations**

**55.—**(1) The Commissioner may investigate—

- (a) cases in which a written allegation is made to the Commissioner by any person that a councillor (or former councillor) has failed, or may have failed, to comply with the code of conduct; and
- (b) other cases in which the Commissioner considers that a councillor (or former councillor) has failed, or may have failed, to comply with the code of conduct and which have come to the Commissioner's attention as a result of an investigation under paragraph (a).

(2) Instead of, or in addition to, conducting an investigation under this section, the Commissioner may take such action as appears to the Commissioner to be desirable to deal with any particular case falling within subsection (1).

(3) If the Commissioner considers that a written allegation under subsection (1)(a) should not be investigated, the Commissioner must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.

(4) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (5) is appropriate.

(5) Those findings are—

- (a) that there is no evidence of any failure to comply with the code of conduct;
- (b) that no action needs to be taken in respect of the matters which are the subject of the investigation;
- (c) that the Commissioner should make an adjudication on the matters which are the subject of the investigation.

(6) The Commissioner may cease an investigation under this section at any stage before its completion.

#### **Investigations: further provisions**

**56.—**(1) The procedure for conducting an investigation under section 55 is to be such as the Commissioner considers appropriate in the circumstances of the case.

(2) Without prejudice to subsection (1), the Commissioner must give any person who is the subject of an investigation under section 55 an opportunity to comment on any allegation that the person has failed, or may have failed, to comply with the code of conduct.

(3) The Commissioner may pay to persons who attend or furnish information for the purposes of an investigation under section 55—

- (a) such sums in respect of the expenses properly incurred by them; and
  - (b) such allowances by way of compensation for the loss of their time,
- as may be determined by the Commissioner.
- (4) The carrying out of an investigation under section 55 is not to affect—
- (a) any action taken by the council concerned; or
  - (b) any power or duty of the council concerned to take further action with respect to any matters which are the subject of the investigation.
- (5) Where a person is no longer a councillor of the council concerned but is a councillor of another council, any reference in subsection (4) to the council concerned is to be treated as including a reference to that other council.

*Reports, etc.*

**Reports, etc.**

- 57.—(1) Where the Commissioner determines in relation to any case that a finding under section 55(5)(a) or (b) is appropriate, the Commissioner—
- (a) may produce a report on the outcome of the investigation;
  - (b) may—
    - (i) provide a summary of any such report to any newspapers circulating in the district of the council concerned; and
    - (ii) take other steps to publicise the summary;
  - (c) must send a copy of any such report to the clerk of the council concerned and to the councillor; and
  - (d) where the Commissioner does not produce any such report, must inform the clerk of the council concerned and the councillor of the outcome of the investigation.
- (2) Where the Commissioner determines in relation to any case that a finding under section 55(5)(c) is appropriate, the Commissioner must—
- (a) produce a report on the outcome of the investigation;
  - (b) send a copy of the report to the clerk of the council concerned; and
  - (c) send a copy of the report to the councillor.
- (3) Where a person is no longer a councillor of the council concerned but is a councillor of another council the references in subsections (1)(b), (c) and (d) and (2)(b) to the council concerned are to be treated as including references to that other council.
- (4) A report under this section may cover more than one investigation under section 55 in relation to any councillors (or former councillors) of the same council.

(5) The Commissioner must take reasonable steps to inform any person who made any allegation which gave rise to the investigation, of the outcome of the investigation.

(6) In subsections (1) and (2) “councillor” means the councillor (or former councillor) who is the subject of the investigation.

### **Interim reports**

**58.—**(1) Where the Commissioner considers it necessary in the public interest, the Commissioner may, before the completion of an investigation under section 55, produce an interim report on that investigation.

(2) An interim report under this section may cover more than one investigation under section 55 in relation to any councillors (or former councillors) of the same council.

(3) A copy of any report under this section must be given—

- (a) to any person who is the subject of the report; and
- (b) to the clerk of the council concerned.

(4) Where a person is no longer a councillor of the council concerned but is a councillor of another council the reference in subsection (3)(b) to the council concerned is to be treated as including a reference to that other council.

### *Decisions and recommendations*

#### **Decision following report**

**59.—**(1) The Commissioner may make an adjudication on any matter by deciding whether or not any person to which that matter relates has failed to comply with the code of conduct.

(2) Where the Commissioner decides that a person has not failed to comply with the code of conduct, the Commissioner must give notice to that effect to the clerk of the council concerned.

(3) Where the Commissioner decides that a person has failed to comply with the code of conduct, the Commissioner must decide whether no action should be taken or whether the nature of the failure is such that the Commissioner should—

- (a) censure the person;
- (b) suspend or partially suspend the person from being a councillor; or
- (c) disqualify the person for being, or becoming (whether by election or otherwise), a councillor.

(4) Where the Commissioner makes such a decision as is mentioned in subsection (3)(a), the Commissioner must censure the person in such terms as the Commissioner thinks appropriate.

(5) Where the Commissioner makes such a decision as is mentioned in subsection (3)(b), the Commissioner must suspend or partially suspend the person from being a councillor for such period as the Commissioner thinks appropriate but not exceeding one year or, if shorter, the remainder of the person's term of office.

(6) Where the Commissioner makes such a decision as is mentioned in subsection (3)(c), the Commissioner must disqualify the person for being, or becoming (whether by election or otherwise), a councillor for such period as the Commissioner thinks appropriate but not exceeding five years.

(7) Where the Commissioner decides that a person has failed to comply with the code of conduct but should not be censured, suspended or disqualified as mentioned in subsection (3), the Commissioner must give notice to the clerk of the council concerned—

- (a) stating that the person has failed to comply with the code of conduct;
- (b) specifying the details of that failure; and
- (c) stating that the Commissioner has decided not to censure, suspend or disqualify the person.

(8) Where the Commissioner suspends or partially suspends a person under subsection (5), the Commissioner must give notice to the clerk of the council concerned—

- (a) stating that the person has failed to comply with the code of conduct;
- (b) specifying the details of that failure; and
- (c) stating that the person is suspended or partially suspended for the period, and in the way, which the Commissioner has decided.

(9) Where the Commissioner disqualifies a person under subsection (6), the Commissioner must give notice to the clerk of the council concerned—

- (a) stating that the person has failed to comply with the code of conduct;
- (b) specifying the details of that failure; and
- (c) stating that the person is disqualified for being, or becoming (whether by election or otherwise), a councillor for the period which the Commissioner has decided.

(10) A copy of any notice under this section—

- (a) must be given to any person who is the subject of the decision to which the notice relates; and
- (b) must be published in one or more newspapers circulating in the district of the council concerned.

(11) Where the person concerned is no longer a councillor of the council concerned but is a councillor of another council—

- (a) a copy of any notice under this section to the clerk of the council concerned must also be given to the clerk of that other council; and
- (b) the reference in subsection (10)(b) to the council concerned is to be treated as including a reference to that other council.

(12) The Commissioner must take reasonable steps to inform any person who made any allegation which gave rise to the adjudication of the Commissioner's decision under this section.

(13) A person who is censured, suspended or disqualified by the Commissioner as mentioned in subsection (3) may appeal to the High Court if the High Court gives the person leave to do so.

(14) An appeal under subsection (13) may be made on one or more of the following grounds—

- (a) that the Commissioner's decision was based on an error of law;
- (b) that there has been procedural impropriety in the conduct of the investigation under section 58;
- (c) that the Commissioner has acted unreasonably in the exercise of the Commissioner's discretion;
- (d) that the Commissioner's decision was not supported by the facts found to be proved by the Commissioner;
- (e) that the sanction imposed was excessive.

### **Decisions on interim reports**

**60.—**(1) Where the prima facie evidence is such that it appears to the Commissioner—

- (a) that the person who is the subject of an interim report has failed to comply with the code of conduct;
- (b) that the nature of that failure is such as to be likely to lead to disqualification under section 59(3)(c); and
- (c) that it is in the public interest to suspend or partially suspend that person immediately,

the Commissioner may give notice to the clerk of the council concerned that that person is suspended or partially suspended from being a councillor for such period and in such way as may be specified in the notice.

(2) The period specified in a notice under subsection (1) must not exceed six months or (if shorter) the remainder of the person's term of office.

(3) The effect of a notice under subsection (1) is to suspend or partially suspend the person concerned as mentioned in that subsection.

(4) A decision of the Commissioner under this section does not prevent the Commissioner from continuing with the investigation under section 55 which



gave rise to the interim report concerned and producing a report under section 57, or a further interim report under section 58, in respect of any matters which are the subject of the investigation.

(5) The suspension or partial suspension of any person under this section must not extend beyond the day on which a notice under section 59 is given to the clerk of the council concerned with respect to that person.

(6) A copy of any notice under this section must be given to any person who is the subject of the notice.

(7) Where a person is no longer a councillor of the council concerned but is a councillor of another council—

- (a) the notice under subsection (1) must be given to the clerk of that other council and a copy of that notice must be given to the clerk of the council concerned;
- (b) the reference in subsection (5) to the clerk of the council concerned is to be construed in accordance with section 59.

(8) The Commissioner must take reasonable steps to inform any person who made any allegation which gave rise to the investigation under section 55 of the Commissioner's decision under this section.

(9) A person who is suspended (or partially suspended) by the Commissioner by notice as mentioned in subsection (1) may appeal to the High Court if the High Court gives the person leave to do so.

(10) An appeal under subsection (9) may be made—

- (a) against the suspension (or partial suspension);
- (b) against the length of the suspension (or partial suspension).

### **Recommendations**

**61.—**(1) The Commissioner, having adjudicated on any matter, may make recommendations to a council about any matters relating to—

- (a) the exercise of the council's functions; or
- (b) the failure to observe the code of conduct.

(2) The Commissioner—

- (a) must send a copy of any recommendations under subsection (1) to the Department; and
- (b) may send a copy of those recommendations to any other public body.

(3) A council to which recommendations are made under subsection (1) must

- (a) consider the recommendations; and

(b) within such period beginning with the day on which the recommendations are received as the Commissioner may specify, prepare a report for the Department giving details of what action the council has taken or is proposing to take as a result of the recommendations.

(4) A council's function of considering a report under subsection (3) may be discharged only by the council (and accordingly, is not to be a function to which section 7 applies).

(5) If the Department is not satisfied with the action the council has taken or proposes to take in relation to the recommendations, the Department may require the council to publish a statement giving details of the recommendations made by the Commissioner and of the council's reasons for not fully implementing the recommendations.

*Disclosure and registration of councillors' interests, etc.*

**Disclosure and registration of councillors' interests, etc.**

**62.—**(1) The clerk of each council must establish and maintain a register of interests of its councillors.

(2) Any participation by a councillor in any business which is prohibited by the code of conduct is not a failure to comply with the code of conduct if the councillor has acted in compliance with sections 28 to 31 of the Local Government Act (Northern Ireland) 1972.

(3) A council must ensure that copies of the register maintained under this section are available at an office of the council for inspection by members of the public at all reasonable hours.

(4) As soon as practicable after the establishment of a register under this section, the council must—

(a) publish in one or more newspapers circulating in its district a notice which

—  
(i) states that copies of the register are available at an office of the council for inspection by members of the public at all reasonable hours; and

(ii) specifies the address of that office; and

(b) inform the Commissioner and the Department that copies of the register are so available.

*Miscellaneous*

**Extension of 1996 Order**

**63.**—(1) The following provisions of the 1996 Order have effect as if references to that Order included references to this Part—

Article 6 (staff and expenses);

Article 12(3) (investigations to be conducted in private);

Article 13 (evidence);

Article 14 (obstruction and contempt) except paragraph (3);

Article 19 (reports to the Assembly);

Article 20 (privilege for certain publications);

Article 21 (disclosure of information by the Commissioner); and

Article 21A (disclosure of information to the Information Commissioner).

(2) Article 12(5) of the 1996 Order (power to obtain information and make inquiries) applies in relation to an investigation under section 55 as it applies in relation to an investigation under that Order.

(3) Article 21 of the 1996 Order (disclosure of information obtained by the Commissioner) applies as if references to Article 16 or 17 of that Order were omitted.

**Expenditure of Commissioner under this Act**

**64.**—(1) Before the commencement of each financial year the Commissioner must prepare an estimate of the amount of the expenses of the Commissioner under this Act.

(2) The Department must apportion the amount estimated in accordance with subsection (1) between all the councils in Northern Ireland in such manner as the Department, after consultation in accordance with subsection (3), considers appropriate.

(3) The Department must consult—

(a) councils; and

(b) such associations or bodies representative of councils as appear to the Department to be appropriate,

about the manner in which the amount mentioned in subsection (2) is to be apportioned.

(4) The Department may deduct from any grant payable under section 27A of the Local Government Finance Act (Northern Ireland) 2011 to a council for a financial year the amount apportioned to it under subsection (2).

## **Interpretation**

**65.**—(1) In this Part—

“the 1996 Order” means the Commissioner for Complaints (Northern Ireland) Order 1996;

“code of conduct” means the code of conduct under section 53;

“the Commissioner” has the same meaning as in the 1996 Order;

“councillor” includes a person treated as a non-voting member by section 17 or falling within section 28(4).

(2) Any reference in this Part to a councillor being partially suspended from being a councillor includes a reference to a person being prevented from exercising particular functions or having particular responsibilities as a councillor.

(3) Where a councillor is suspended otherwise than partially the councillor is also suspended from being a member of any committee, joint committee, or sub-committee of the council.

(4) A councillor who is disqualified under this Part from being a councillor is also disqualified from being a member of any committee, joint committee, or sub-committee of the council.

(5) Where a councillor who is suspended otherwise than partially or is disqualified under this Part is also a member of any other public body (whether as an external representative of the council or otherwise), the councillor is also suspended or disqualified from being a member of that body and any committee or sub-committee of that body.

(6) Any reference in this Part to a councillor being partially suspended from being a councillor includes a reference to the councillor being partially suspended from being a member of any other public body of which the councillor is a member (whether as an external representative of the council or otherwise) and the reference in subsection (2) to particular functions or particular responsibilities as a councillor includes particular functions or particular responsibilities as a member of that body.

## **PART 10**

### **COMMUNITY PLANNING**

#### *General*

#### **Community planning**

**66.**—(1) A council must—

- (a) initiate; and
  - (b) having done so, maintain, facilitate and participate in, community planning for its district.
- (2) Community planning for a district is a process by which the council and its community planning partners—
- (a) identify long-term objectives for improving—
    - (i) the social well-being of the district;
    - (ii) the economic well-being of the district; and
    - (iii) the environmental well-being of the district;
  - (b) identify long-term objectives in relation to the district for contributing to the achievement of sustainable development in Northern Ireland; and
  - (c) identify actions to be performed and functions to be exercised by the council and its community planning partners (including actions and functions related to the planning, provision and improvement of public services) for the purpose of meeting the objectives identified under paragraphs (a) and (b).
- (3) In subsection (2)(a)—
- (a) the reference to improving the social well-being of the district includes promoting equality of opportunity in accordance with section 75 of the Northern Ireland Act 1998 and, without prejudice to this, having regard to the desirability of promoting good relations; and
  - (b) the reference to improving the economic well-being of the district includes tackling poverty, social exclusion and patterns of deprivation;
- and expressions used in this subsection and in section 28E of that Act (Executive Committee's strategy relating to poverty, social exclusion etc.) have the same meaning as in that section.
- (4) Every community planning partner of a council—
- (a) must participate in community planning for the district to the extent that such planning is connected with the partner's functions; and
  - (b) must assist the council in the discharge of its duties under subsection (1).
- (5) For the purposes of this section, a reference to an action to be performed or a function to be exercised by a council or one of its community planning partners is a reference to an action or function which is within the powers of the council or partner.
- (6) In the discharge of its duties under subsection (1) a council must where appropriate have regard to its plan strategy and its local policies plan under sections 8 and 9 of the Planning Act (Northern Ireland) 2011.

### **Community planning partners**

**67.—**(1) The Department may by order specify the bodies or persons who are to be the community planning partners of a council.

(2) The Department must not make an order containing provisions under subsection (1) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(3) The Department must not make an order under subsection (1) unless it has consulted—

- (a) the bodies and persons specified in the order as community planning partners of a council;
- (b) district councils; and
- (c) such other bodies and persons as the Department considers appropriate.

(4) Subsections (2) and (3) do not apply to an order under subsection (1) which is made solely in consequence of a change of name of a body or in consequence of a body ceasing to exist; but such an order is subject to negative resolution.

### *Community plan*

### **Production of community plan**

**68.—**(1) Once community planning for a district has reached the stage described in subsection (2), the council must produce a document (a “community plan”) containing the information described in subsection (3).

(2) The stage referred to in subsection (1) is reached when the council is of the opinion that the degree of consensus amongst the community planning partners and the council—

- (a) as to community plan objectives for the district is such that it is appropriate to set such objectives in the community plan; and
- (b) as to the actions to be performed and functions to be exercised for the purpose of achieving those objectives is such that it is appropriate to describe them in the community plan.

(3) The information to be contained in the community plan is—

- (a) a description of the community plan objectives which the council considers it appropriate to set having regard to the consensus referred to in subsection (2)(a); and
- (b) a description of the actions to be performed and functions to be exercised for the purpose of achieving those objectives which the council considers it appropriate to include in the plan having regard to the consensus referred to in subsection (2)(b).

(4) The community plan—

- (a) must be produced as soon as is reasonably practicable after community planning for the district has reached the stage described in subsection (2); and
- (b) once produced, must be published as soon as is reasonably practicable by the council.

**Duty to review community plan**

**69.—**(1) A review must be completed in accordance with section 70—

- (a) before the fourth anniversary of the date on which the community plan was published under section 68(4); and
- (b) subsequently, before the fourth anniversary of the date on which the last such review was completed.

(2) For the purposes of this section and section 70, a community plan review is completed on—

- (a) the date on which an amended community plan is published under section 70(6); or
- (b) if a review does not result in any amendment to a community plan, the date on which the council decided that it was not required under section 70(4) to amend the plan.

**Review of community plan**

**70.—**(1) This section sets out the process by which a community plan must be reviewed.

(2) A council and, subject to subsection (3), its community planning partners must—

- (a) taking into account any statement published under section 71(3) since the community plan was produced or (as the case may be) its last review was completed, consider the extent to which—
  - (i) the community plan objectives contained in the plan have been met; and
  - (ii) if an objective has not been met, progress has been made towards meeting the objective;
- (b) in the light of the consideration under paragraph (a) and any other factors which the council or a partner thinks appropriate, consider—
  - (i) whether the community plan objectives should be modified;
  - (ii) whether new objectives should be set;

- (iii) whether the plan's description of the actions to be taken and functions to be exercised for the purpose of achieving a community plan objective should be modified (whether in the light of a modification of an objective or for any other reason);
- (iv) where the council or partner considers that a new objective should be set, which actions should be taken and which functions exercised for the purpose of achieving the objective.

(3) A community planning partner's duty under subsection (2) extends only to matters connected with its functions.

(4) If the requirement in subsection (5) is met a council must, following the consideration required by subsection (2), amend the community plan for its district by doing all or any of the following—

- (a) modifying the community plan objectives;
- (b) setting new objectives;
- (c) modifying the actions to be taken and functions to be exercised for the purpose of achieving a community plan objective;
- (d) describing the actions to be taken and functions to be exercised for the purpose of achieving a new objective.

(5) The requirement is that, in relation to a proposed amendment, the council is of the opinion that the degree of consensus amongst the community planning partners and the council in relation to the amendment is such that it is appropriate to make the amendment.

(6) The council must, as soon as is reasonably practicable after becoming subject to the duty under subsection (4), publish an amended community plan.

### **Monitoring**

**71.—**(1) A council and its community planning partners must ensure that arrangements are made for monitoring—

- (a) progress made towards meeting the community plan objectives for the district contained in the current community plan; and
- (b) the effectiveness of actions taken and functions exercised for the purpose of meeting those objectives.

(2) A community planning partner's duty under subsection (1) extends only to matters connected with its functions.

(3) A council must at least once every two years publish a statement which describes—

- (a) progress made and outcomes achieved in meeting the community plan objectives for its district; and



(b) actions taken and functions exercised for the purpose of meeting those objectives.

(4) It is the duty of each community planning partner of a council to provide such information as the council may reasonably require in order to enable it to comply with its duty under subsection (3).

(5) The first statement under subsection (3) must be produced within two years of the date on which a community plan is published under section 68(4).

### **Implementation**

**72.—**(1) This section applies to a council or one of its community planning partners if the current community plan for the district describes—

- (a) an action to be performed by the council or partner for the purpose of achieving a community plan objective; or
- (b) a function to be exercised by the council or partner for the purpose of achieving a community plan objective.

(2) The council or community planning partner must take all reasonable steps to perform the action or exercise the function in accordance with the community plan.

### *Community involvement*

### **Community involvement**

**73.—**(1) A council and its community planning partners must seek the participation of and encourage the persons mentioned in subsection (2) to express their views, and take those views into account, in connection with—

- (a) community planning;
- (b) the production of a community plan for the district; and
- (c) the review of community plans.

(2) The persons are—

- (a) persons resident in the district;
- (b) persons who are not resident in the district but who receive services provided by the council or one of its community planning partners;
- (c) representatives of relevant voluntary bodies;
- (d) representatives of persons carrying on businesses in the district;
- (e) other persons who, in the opinion of the council, are interested in the improvement of the district's social, economic or environmental well-being.

(3) For the purposes of this section “relevant voluntary bodies” means voluntary bodies whose activities directly or indirectly benefit the whole or any part of the district.

(4) A registered housing association which provides housing in the district is a relevant voluntary body for the purposes of this section.

(5) In this section—

“registered housing association” has the same meaning as in Part 2 of the Housing (Northern Ireland) Order 1992;

“voluntary body” means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members of the association.

### *Miscellaneous*

#### **Guidance**

74.—(1) The Department may issue guidance about—

- (a) any aspect of community planning;
- (b) the production and review of community plans;
- (c) the duties of a council and its community planning partners under sections 71 to 73.

(2) Before issuing guidance under this section the Department must consult councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as appear to the Department to be appropriate.

(3) A council and its community planning partners must have regard to any guidance issued under this section.

#### **Duties of departments in relation to community planning**

75. So far as it is reasonably practicable to do so, every Northern Ireland department must—

- (a) in exercising any function which might affect community planning, promote and encourage community planning;
- (b) have regard to any implications of a community plan for the exercise of that department’s functions.

**Establishment of bodies corporate**

76.—(1) The Department may—

- (a) on the application of a council and at least one of its community planning partners; and
- (b) after considering a report on the matters specified in subsection (2) made to the Department by the council and at least one of the council's community planning partners,

by order establish a body corporate having the constitution and functions specified in the order.

(2) The matters referred to in subsection (1)(b) are—

- (a) what consultations were conducted on the question whether to apply for an order;
- (b) the views on that question of the council and the council's community planning partners;
- (c) the views of other persons consulted on that question;
- (d) what functions should be specified in the order; and
- (e) such other matters as may be prescribed.

(3) An order made under subsection (1) may include provisions about—

- (a) the membership of the body established under it;
- (b) the proceedings of the body;
- (c) the transfer of property, rights and liabilities to and from the body;
- (d) the appointment and employment by the body of staff;
- (e) the supply by councils and other persons of services for the body;
- (f) the audit of the accounts of the body;
- (g) the dissolution of the body; and
- (h) such other matters as the Department thinks fit.

(4) A function may be specified under subsection (1) and accordingly fall to be discharged by the body in relation to which it is specified notwithstanding that under any statutory provision the function falls to be discharged also by another body or person.

(5) Subsection (4) has effect notwithstanding—

- (a) the absence of any statutory provision or rule of law providing for the discharge of that function otherwise than by the other body or person having that function; or
- (b) any statutory provision or rule of law preventing the discharge of that function in that way.

(6) In subsection (5) "statutory provision" does not include this section.

(7) Section 19 of the Interpretation Act (Northern Ireland) 1954 applies to a body established under subsection (1).

### **Amendments of the Planning Act (Northern Ireland) 2011**

77.—(1) The Planning Act (Northern Ireland) 2011 is amended as follows.

(2) In section 8 (plan strategy), in subsection (5) (matters which a council must take account of in preparing a plan strategy) after paragraph (a) there shall be inserted—

“(aa) the council’s current community plan;”.

(3) In section 9 (local policies plan), in subsection (6) (matters which a council must take account of in preparing a local policies plan) after paragraph (a) there shall be inserted—

“(aa) the council’s current community plan;”.

(4) In section 250 (interpretation), in subsection (1) after the definition of “clerk of the council” there shall be inserted—

““current community plan” has the same meaning as in Part 10 (community planning) of the Local Government Act (Northern Ireland) 2014;”.

(5) The amendments made by this section do not apply in relation to a council until the council has published a community plan under section 68(4).

### **Interpretation**

78.—(1) For the purposes of this Part—

“community planning” must be construed in accordance with section 66;

“community planning partner” means a person falling within section 67;

“current community plan” means the community plan for a district published under section 68(4) or, where the plan has been amended following a review under section 70, the plan most recently published under section 70(6).

(2) Any reference in this Part to an action being performed or a function being exercised for the purposes of achieving a community plan objective is a reference to an action being performed or a function being exercised as described in section 66(2)(c).

(3) Where this Part refers to a thing being connected with a community planning partner’s functions, the functions in question do not include the partner’s functions under this Part.

(4) A document referred to in this Act as a “community plan” (or by an expression including that term) may instead be referred to by whatever alternative name is agreed between a council and its community planning partners.

## PART 11

### GENERAL POWERS OF COUNCILS

#### **Council's general power of competence**

**79.**—(1) A council has power to do anything that individuals generally may do.

(2) Subsection (1) applies to things that an individual may do even though they are in nature, extent or otherwise—

- (a) unlike anything the council may do apart from subsection (1); or
- (b) unlike anything that other public bodies may do.

(3) In this section “individual” means an individual with full capacity.

(4) Where subsection (1) confers power on the council to do something, it confers power (subject to sections 80 and 81) to do it in any way whatever, including—

- (a) power to do it for a charge, or without charge; and
- (b) power to do it for, or otherwise than for, the benefit of the council, its district or persons resident or present in its district.

(5) The generality of the power conferred by subsection (1) (“the general power”) is not limited by the existence of any other power of the council which (to any extent) overlaps the general power.

(6) Any such other power is not limited by the existence of the general power (but see section 82(2)).

#### **Boundaries of the general power**

**80.**—(1) If exercise of a pre-commencement power of a council is subject to restrictions, those restrictions apply also to exercise of the general power so far as it is overlapped by the pre-commencement power.

(2) The general power does not enable a council to do—

- (a) anything which the council is unable to do by virtue of a pre-commencement limitation; or
- (b) anything which the council is unable to do by virtue of a post-commencement limitation which is expressed to apply—
  - (i) to the general power;
  - (ii) to all of the council's powers; or
  - (iii) to all of the council's powers but with exceptions that do not include the general power.

(3) The general power does not confer power to—

- (a) make or alter arrangements of a kind which may be made under Part 4;
- (b) make or alter arrangements of a kind which are made, or may be made, by or under Part 5 or Part 6;
- (c) make or alter any contracting-out arrangements, or other arrangements within neither of paragraphs (a) and (b), that authorise a person to exercise a function of a council.

(4) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision which comes into operation after the commencement of section 79;

“pre-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision (including a provision of or made under this Act) which comes into operation on or before the commencement of section 79;

“pre-commencement power” means power conferred by a statutory provision which comes into operation before the commencement of section 79.

#### **Limits on charging in exercise of general power**

**81.**—(1) Subsection (2) applies where—

- (a) a council provides a service to a person otherwise than for a commercial purpose; and
- (b) its providing the service to the person is done, or could be done, in exercise of the general power.

(2) The general power confers power to charge the person for providing the service to the person only if—

- (a) the service is not one that a statutory provision requires the council to provide to the person;
- (b) the person has agreed to its being provided; and
- (c) the council would not otherwise have power to charge for providing the service.

(3) The general power is subject to a duty to secure that, taking one financial year with another, the income from charges allowed by subsection (2) does not exceed the costs of provision.

(4) The duty under subsection (3) applies separately in relation to each kind of service.

**Powers to make supplemental provision**

**82.**—(1) If the Department thinks that a statutory provision (whenever passed or made) prevents or restricts councils from exercising the general power, the Department may by order amend, repeal, revoke or disapply that provision.

(2) If the Department thinks that the general power is overlapped (to any extent) by another power it shall seek to remove or reduce that overlap, taking into account the views of the bodies exercising the overlapping powers.

(3) For the purposes of subsection (2) the Department may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made).

(4) The Department may by order make provision preventing councils from doing, in exercise of the general power, anything which is specified, or is of a description specified, in the order.

(5) The Department may by order provide for the exercise of the general power by councils to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.

(6) Before the Department makes an order under this section it must consult—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as appear to the Department to be appropriate.

(7) If, following consultation under subsection (6), the Department proposes to make an order under this section it must lay before the Assembly a document explaining the proposals and, in particular—

- (a) setting them out in the form of a draft order; and
- (b) giving details of consultation under subsection (6).

(8) Where a document relating to proposals is laid before the Assembly under subsection (7), no draft of an order under this section to give effect to the proposals (with or without modification) is to be laid before the Assembly until after the expiry of the statutory period beginning with the day on which the document was laid.

(9) In preparing a draft order under this section the Department must consider any representations made during the period mentioned in subsection (8).

(10) A draft order laid before the Assembly in accordance with section 127(3) must be accompanied by a statement of the Department giving details of—

- (a) any representations considered in accordance with subsection (9); and
- (b) any changes made to the proposals contained in the document laid before the Assembly under subsection (7).

**Limits on power conferred by section 82(1)**

**83.**—(1) The Department may not make provision under section 82(1) unless the Department considers that the conditions in subsection (2), where relevant, are satisfied in relation to that provision.

(2) Those conditions are that—

- (a) the effect of the provision is proportionate to the policy objective intended to be secured by the provision;
- (b) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;
- (c) the provision does not remove any necessary protection;
- (d) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
- (e) the provision is not of constitutional significance.

(3) An order under section 82(1) may not make provision for the delegation or transfer of any function of legislating.

(4) For the purposes of subsection (3) a “function of legislating” is a function of legislating by order, rules, regulations or other subordinate instrument.

## PART 12

### PERFORMANCE IMPROVEMENT

#### *General duty*

**Improvement: general duty**

**84.**—(1) A council must make arrangements to secure continuous improvement in the exercise of its functions.

(2) In discharging its duty under subsection (1), a council must have regard in particular to the need to improve the exercise of its functions in terms of—

- (a) strategic effectiveness;
- (b) service quality;
- (c) service availability;
- (d) fairness;
- (e) sustainability;
- (f) efficiency; and
- (g) innovation.



*Improvement objectives***Improvement objectives**

**85.**—(1) For each financial year, a council must set itself objectives for improving the exercise of its functions during that year (“improvement objectives”).

(2) A council must make arrangements to secure achievement of its improvement objectives.

(3) An improvement objective must be framed so as to improve the exercise of the function or functions to which it relates in terms of at least one of the following—

- (a) strategic effectiveness;
- (b) service quality;
- (c) service availability;
- (d) fairness;
- (e) sustainability;
- (f) efficiency; and
- (g) innovation.

*Improvement: supplementary***Improvement: supplementary**

**86.**—(1) A council improves the exercise of its functions in terms of—

- (a) strategic effectiveness, if it exercises its functions in a way which is reasonably likely to lead to the achievement of, or assist in achieving, any of its strategic objectives;
- (b) service quality, if there is an improvement in the quality of services;
- (c) service availability, if there is an improvement in the availability of services;
- (d) fairness, if—
  - (i) disadvantages faced by particular groups in accessing, or taking full advantage of, services are reduced; or
  - (ii) social well-being is improved as a result of the provision of services or the way in which functions are otherwise exercised;
- (e) sustainability, if services are provided or functions are otherwise exercised in a way which contributes to the achievement of sustainable development in Northern Ireland;

- (f) efficiency, if there is an improvement in the efficiency with which resources are used in the provision of services or in the way in which functions are otherwise exercised; and
  - (g) innovation, if the way in which services are provided or functions are otherwise exercised is altered in a manner which is reasonably likely to lead to any outcome described in paragraphs (a) to (f).
- (2) For the purposes of subsection (1)(a), a council's strategic objectives are the objectives contained in its current community plan.
- (3) For the purposes of this section references to services are to—
- (a) services provided by the council in the exercise of its functions;
  - (b) services provided by any other person under arrangements made by the council in the exercise of its functions.
- (4) In subsection (2) “current community plan” has the meaning given by section 78(1).
- (5) The Department may by order—
- (a) amend or omit any paragraph of subsection (1);
  - (b) add additional paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs;
  - (d) make such other amendments of this Part as appear to the Department to be necessary or expedient in connection with provision made under this subsection.

### **Consultation on improvement duties**

**87.** In deciding how to discharge its duty under sections 84 and 85, a council must consult persons appearing to the council to be representative of—

- (a) persons liable to pay rates in respect of hereditaments in the district;
- (b) persons who use or are likely to use services provided by the council;
- (c) persons appearing to the council to have an interest in the district.

### **Appropriate arrangements under sections 84(1) and 85(2)**

**88.—(1)** In making arrangements under section 84(1) or section 85(2) a council must take into consideration what are regarded, whether by reference to any generally recognised published code or otherwise, as appropriate arrangements for the purposes of that section (or purposes which include those purposes).

(2) But if there is any conflict in any respect between a council's duty under subsection (1) and its duty under section 111(3) to have regard to any guidance

issued under that section, a council must have regard only to its duty under section 111(3).

*Performance indicators and performance standards*

**Performance indicators and performance standards**

**89.**—(1) The Department may by order specify—

- (a) factors (“performance indicators”) by reference to which a council’s performance in exercising functions can be measured;
- (b) standards (“performance standards”) to be met by councils in relation to performance indicators specified under paragraph (a).

(2) Before specifying performance indicators or standards the Department must consult councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as appear to the Department to be appropriate.

(3) In deciding whether to specify performance indicators and standards, and in deciding them, the Department must aim to promote improvement of the exercise of the functions of councils generally and in particular in terms of at least one of the following—

- (a) strategic effectiveness;
- (b) service quality;
- (c) service availability;
- (d) fairness;
- (e) sustainability;
- (f) efficiency; and
- (g) innovation.

(4) For the meanings of paragraphs (a) to (g) of subsection (3), see section 86.

(5) A council must make arrangements to exercise its functions so that any applicable performance standard specified under subsection (1)(b) is met.

*Improvement planning and information*

**Collection of information relating to performance**

**90.**—(1) A council must make arrangements for—

- (a) the collection of information which will allow it to assess whether it has met during a financial year those improvement objectives set under section 85(1) which are applicable to that year;
  - (b) the collection of information which will allow it to—
    - (i) measure its performance during a financial year by reference to those performance indicators specified under section 89(1)(a) which are applicable to the council for that year;
    - (ii) assess whether it has met during a financial year those performance standards specified under section 89(1)(b) which are applicable to the council for that year;
  - (c) the collection of information which will allow it to—
    - (i) measure its performance during a financial year by reference to those self-imposed performance indicators which are applicable to that year;
    - (ii) assess whether it has met during a financial year those self-imposed performance standards which are applicable to that year.
- (2) For the purposes of this section and sections 91 and 92—
- (a) a self-imposed performance indicator is a factor by reference to which a council has decided to measure its performance in exercising its functions; and
  - (b) a self-imposed performance standard is a standard which a council has decided to meet in relation to a self-imposed performance indicator.

### **Use of performance information**

**91.—(1)** A council must use the information it collects under section 90 to compare its performance in exercising the functions to which the information relates with—

- (a) its performance in exercising those or similar functions during previous financial years; and
  - (b) so far as is reasonably practicable, the performance of other councils in exercising those or similar functions during the financial year to which the information relates and during previous financial years.
- (2) A council must—
- (a) use the information it collects under section 90 to assess whether it could improve its performance in exercising its functions; and
  - (b) in the light of that assessment, decide what steps it will take with a view to improving its performance in exercising its functions.
- (3) In discharging its duty under this section and section 90 a council must have regard to any guidance issued by the Department.

**Improvement planning and publication of improvement information**

**92.—**(1) A council must make arrangements in accordance with this section for the publication of the information described below.

(2) The council must make arrangements for the publication of—

- (a) the council's assessment of its performance during a financial year—
  - (i) in discharging its duty under section 84;
  - (ii) in meeting the improvement objectives it has set itself under section 85 which are applicable to that year;
  - (iii) by reference to performance indicators specified under section 89(1)(a) and self-imposed performance indicators which are applicable to that year;
  - (iv) in meeting performance standards specified under section 89(1)(b) and self-imposed performance standards which are applicable to that year;
- (b) the council's assessment of its performance in exercising its functions during a financial year as compared with—
  - (i) its performance in previous financial years; and
  - (ii) so far as is reasonably practicable, the performance during that and previous financial years of other councils;
- (c) details of the information collected under section 90 in respect of a financial year and what the council has done to discharge its duties under section 91 in relation to that year.

(3) Those arrangements must be framed so that the information is published before—

- (a) 30th September in the financial year following that to which the information relates; or
- (b) such other date as the Department may specify by order.

(4) The council must make arrangements for the publication of a description of the council's plans for discharging its duties under sections 84(1), 85(2) and 89(5) in a financial year together with, if the council thinks fit, its plans for subsequent years (an "improvement plan").

(5) Those arrangements must be framed so that the information is published

- (a) as soon as is reasonably practicable after the start of the financial year to which the plan must relate; or
- (b) as soon as is reasonably practicable after such other date as the Department may specify by order.

(6) Without prejudice to the generality of section 111, guidance issued under that section may address—

- (a) the manner in which assessments of performance are to be carried out;
- (b) the making of an improvement plan including the procedure to be followed.

#### *Improvement audits and assessments*

### **Improvement information and planning**

**93.** In respect of each financial year, the local government auditor must carry out an audit for the purpose of determining—

- (a) whether a council has during that year discharged its duties under section 92; and
- (b) the extent to which the council has during that year acted in accordance with any guidance issued by the Department about the council's duties under that section.

### **Improvement assessments**

**94.—**(1) In respect of each financial year, the local government auditor must carry out an assessment for the purpose of determining whether a council is likely during that year to comply with the requirements of this Part.

(2) In conjunction with an assessment under subsection (1), the local government auditor may carry out an assessment for the purpose of determining whether the council is likely to comply with the requirements of this Part in subsequent financial years.

### **Audit and assessment reports**

**95.—**(1) Each financial year, the Department, after consultation with the local government auditor, must determine which councils are to be councils in respect of which subsection (2) applies in that financial year.

(2) Each financial year, the local government auditor must issue a report or reports in respect of each council to which this subsection applies in that financial year—

- (a) certifying that the local government auditor has carried out an audit under section 93 in respect of the previous financial year;
- (b) stating whether as a result of the audit the local government auditor believes—
  - (i) that the council has discharged its duties under section 92; and

- (ii) that the council has acted in accordance with any guidance issued by the Department about the council's duties under that section;
  - (c) certifying that the local government auditor has carried out an assessment under section 94 in respect of the financial year;
  - (d) stating whether as a result of the assessment the local government auditor believes that the council is likely to comply with the requirements of this Part during the financial year;
  - (e) if the local government auditor thinks it appropriate in the light of an audit or assessment, recommending action that the council should take in order to comply with the requirements of this Part or act in accordance with guidance issued by the Department about the council's duties under section 92 (whether in respect of that or a subsequent financial year);
  - (f) if the local government auditor thinks it appropriate in the light of an audit or assessment, recommending that the Department should give a direction under section 100 and, if so, the type of direction;
  - (g) stating whether, in the light of an audit or assessment, the local government auditor is minded to carry out a special inspection under section 98.
- (3) The local government auditor must send a copy of any report issued under this section to the council concerned and the Department.
- (4) Copies of a report must be sent in accordance with subsection (3)—
- (a) by 30th November in the financial year during which the audit was carried out or to which the assessment relates; or
  - (b) by such other date as the Department may specify by order.
- (5) But the Department may by direction set a date for the sending of a report in relation to a specified council which differs from the date which would otherwise apply under subsection (4) if—
- (a) the local government auditor has requested that the Department give such a direction; and
  - (b) in the opinion of the Department, the circumstances are exceptional.
- (6) In subsection (5) "specified" means specified in a direction under that subsection.

### **Response to section 95 reports**

**96.—**(1) The following subsections apply where any report received by a council under section 95(3)—

- (a) contains a recommendation under section 95(2)(e) or (f); or
- (b) states under section 95(2)(g) that the local government auditor is minded to carry out a special inspection.

- (2) The council must prepare a statement of—
  - (a) any action which it proposes to take as a result of the report; and
  - (b) its proposed timetable for taking that action.
- (3) A statement required by subsection (2) must be prepared—
  - (a) before the end of the period of 6 weeks starting with the day on which the council receives the report; or
  - (b) if the report specifies a shorter period starting with that day, before the end of that period.
- (4) The council must incorporate the statement in its improvement plan for the next financial year.
- (5) If the report recommends that the Department give a direction under section 100, the council must send a copy of the statement to the Department—
  - (a) before the end of the period of 6 weeks starting with the day on which the council receives the report; or
  - (b) if the report specifies a shorter period starting with that day, before the end of that period.

### **Annual improvement reports**

**97.—**(1) In relation to each council, the local government auditor must produce a report (an “annual improvement report”) for each financial year which summarises or reproduces the reports described in subsection (2), unless no such reports have been issued in respect of that council during that financial year.

- (2) The reports are—
  - (a) each report issued in respect of the council during that financial year under section 95;
  - (b) any report of a special inspection of the council issued under section 99 during that financial year.
- (3) The local government auditor—
  - (a) must publish each council’s annual improvement report;
  - (b) must consider, in the light of a council’s annual improvement report, whether to—
    - (i) make a recommendation to the Department to give a direction to the council under section 100;
    - (ii) exercise any of the local government auditor’s functions in relation to the council;
  - (c) must make any such recommendation as is mentioned in paragraph (b)(i) as the local government auditor considers ought to be made.



### *Special inspections*

#### **Special inspections**

**98.**—(1) The local government auditor may carry out an inspection of a council's compliance with the requirements of this Part if the local government auditor is of the opinion that the council may fail to comply with the requirements of this Part.

(2) But the local government auditor must, before deciding whether to carry out an inspection—

- (a) consult the Department; and
- (b) in a case where the local government auditor has stated in a report under section 95(2)(g) that the local government auditor is minded to carry out a special inspection, consider any statement made by the council in response in accordance with section 96(2).

(3) An inspection under subsection (1) may relate to some or all of a council's functions.

(4) The Department may direct the local government auditor to carry out an inspection of compliance with the requirements of this Part by a council and the local government auditor must comply with the direction.

(5) A direction under subsection (4) may relate to some or all of a council's functions.

(6) Before giving a direction under subsection (4), the Department must consult the local government auditor.

(7) The local government auditor must notify a council if—

- (a) the local government auditor decides to carry out an inspection of the council under subsection (1); or
- (b) the Department has directed the local government auditor to carry out an inspection of the council under subsection (4).

(8) The notification must specify the functions to which the inspection relates.

(9) In carrying out an inspection, and, in the case of an inspection under subsection (1), deciding whether to do so, the local government auditor must have regard to any guidance issued by the Department.

(10) For the purposes of this Part, an inspection under this section is referred to as a special inspection.

(11) In this section a reference to a council's functions includes a reference to arrangements made to facilitate or support the exercise of its functions.

**Reports of special inspections**

**99.**—(1) Where the local government auditor has carried out a special inspection the local government auditor must issue a report.

(2) A report—

- (a) must mention any matter in respect of which the local government auditor believes as a result of the inspection that the council is failing or may fail to comply with the requirements of this Part; and
- (b) may, if it mentions a matter under paragraph (a), recommend that the Department give a direction under section 100.

(3) The local government auditor—

- (a) must send a copy of a report to the council concerned and the Department;
- (b) if a report makes a recommendation under subsection (2)(b), must as soon as reasonably practicable arrange for the recommendation to be published; and
- (c) may publish a report and any information in respect of a report.

(4) If a report states that the local government auditor believes as a result of an inspection that a council is failing to comply with the requirements of this Part, the next improvement plan prepared by the council must record—

- (a) that fact; and
- (b) any action taken, or to be taken, by the council as a result of the report.

*Powers of direction, etc.*

**Powers of direction, etc.**

**100.**—(1) This section applies in relation to a council if the Department is satisfied that the council is failing, or is likely to fail, to comply with any of the requirements of this Part.

(2) Where this section applies in relation to a council, the Department may direct it to do all or any of the following—

- (a) prepare or amend an improvement plan or to follow specified procedures in relation to such a plan;
- (b) carry out a review of its exercise of specified functions;
- (c) enter into specified arrangements with another council;
- (d) set specified improvement objectives for itself under section 85.

(3) Where this section applies in relation to a council any Northern Ireland department may direct the council to take any action which that department considers necessary or expedient to secure the council's compliance with the requirements of this Part.

(4) Where this section applies in relation to a council any Northern Ireland department may direct—

- (a) that a specified function of the council must be exercised by that department for a period specified in the direction or for so long as that department considers appropriate; and
- (b) that the council must comply with any instructions of that department in relation to the exercise of that function and must provide such assistance as that department may require for the purpose of exercising the function.

(5) Any Northern Ireland department may by regulations make provision which—

- (a) relates to a statutory provision which confers a function on that department in respect of a function of a council; and
- (b) that department considers necessary or expedient for the purposes of cases in which it makes a direction under subsection (4)(a).

(6) Regulations under subsection (5) may, in relation to the cases mentioned in subsection (4)(b)—

- (a) disapply or modify a statutory provision of the kind mentioned in subsection (5)(a);
- (b) have an effect similar to the effect of a statutory provision of that kind.

(7) Subject to subsection (9), a Northern Ireland department must, before giving a direction under this section, give the council concerned an opportunity to make representations about—

- (a) the report (if any) as a result of which the direction is proposed; and
- (b) the direction proposed.

(8) Subject to subsection (9), a Northern Ireland department must, before giving a direction under this section following a recommendation in a report under section 95(2)(f), have regard to any statement under section 96(2) which the council concerned sends the Department before the expiry of the period of one month beginning with the day on which the council received the report.

(9) A Northern Ireland department may give a direction without complying with subsection (7) or (8) if it considers the direction sufficiently urgent.

(10) Where a department gives a direction without complying with subsection (7) or (8) it shall inform—

- (a) the council concerned; and
- (b) such persons appearing to that department to represent councils as it considers appropriate,

of the direction and of the reason why it was given without complying with subsection (7) or (8).

### *Supplementary*

#### **Power to modify statutory provisions and confer new powers**

**101.**—(1) If the Department thinks that a statutory provision prevents or obstructs compliance by councils with their duty under section 84, the Department may by order make provision modifying or excluding the application of the provision in relation to councils.

(2) The Department may by order make provision conferring on councils any power which the Department considers necessary or expedient to permit or facilitate compliance with the duty under section 84.

(3) In exercising a power conferred under subsection (2) a council must have regard to any guidance issued by the Department.

(4) An order under this section may—

- (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
- (b) amend a statutory provision;
- (c) include supplementary, incidental, consequential and transitional provisions.

#### **Application of certain local government audit provisions**

**102.** —In Part 2 of the Local Government (Northern Ireland) Order 2005 (local government audit)—

- (a) in Article 5 (code of audit practice) and Article 7 (auditor’s right to documents and information), references to that Part include references to this Part;
- (b) in Article 7(7), references to the audit of the accounts of any body include references to an audit under section 93, an assessment under section 94 and a special inspection in respect of a council; and
- (c) in Article 8 (audit fees), the reference to every body whose accounts are audited includes a reference to every council which is subject to such an audit, assessment or inspection.

## PART 13

### PARTNERSHIP PANEL

#### **Partnership Panel**

**103.**—(1) The Department must establish and maintain a body to be known as the Partnership Panel for Northern Ireland (“the Panel”).

(2) The Panel may—

- (a) give advice to any Northern Ireland department about matters affecting the exercise of any of its functions;
- (b) make representations to any Northern Ireland department about any matters affecting, or of concern to, those involved in local government; and
- (c) give advice to those involved in local government.

(3) The Panel is to consist of—

- (a) councillors;
- (b) Ministers; and
- (c) a maximum of 5 representatives of such representative body or association of the district councils as appears to the Department to be appropriate,

but this subsection is subject to subsections (4) to (6).

(4) Each council may nominate a councillor to serve as a member of the Panel.

(5) The First Minister and deputy First Minister acting jointly may nominate Ministers to attend particular meetings of the Panel.

(6) Any Minister may attend any meeting of the Panel without having been nominated under subsection (5) to do so.

(7) In this section “Ministers” includes junior Ministers and subject to that any expression used in this section and in the Northern Ireland Act 1998 has the same meaning in this section as in that Act.

## PART 14

### SUPERVISION OF COUNCILS BY NORTHERN IRELAND DEPARTMENTS

#### **Power of any Northern Ireland department to direct council to make reports etc.**

**104.**—(1) Any Northern Ireland department may direct a council to—

- (a) make to that department such reports and returns; and
- (b) give to that department such information with respect to the exercise of the council’s functions,

as may be specified in the direction.

(2) A council must comply with any direction under this section.

#### **Inquiries and investigations**

**105.**—(1) Any Northern Ireland department may cause such local and other inquiries to be held and such investigations to be made as that department thinks

expedient for the purposes of this Act or in connection with the administration of any statutory provision relating to the functions of any council or any committee or sub-committee of a council.

(2) The provisions of Schedule A1 to the Interpretation Act (Northern Ireland) 1954 have effect in relation to any local or other inquiry or any investigation which a Northern Ireland department causes to be held or made under this section as they apply in relation to a local or other inquiry or investigation which a Northern Ireland department causes to be held or made under an enactment passed or made as mentioned in section 23 of that Act.

#### **Power of any Northern Ireland department to intervene in case of default by council**

**106.**—(1) This section applies where a Northern Ireland department (“the relevant department”), after causing a local or other inquiry to be held or an investigation to be made, is satisfied that a council has failed to discharge any of its functions.

(2) The relevant department may make an order—

- (a) declaring the council to be in default; and
- (b) directing the council for the purpose of remedying the default, to take such action, within such period, as is specified in the order.

(3) If an order under subsection (2) is not complied with, the relevant department may by order empower an officer of the relevant department to exercise, or procure the exercise of, the function in question.

(4) Any costs incurred by the relevant department or its officer under an order made under subsection (3) must, in the first instance, be defrayed as expenses of the relevant department, but—

- (a) the amount of those costs as certified by the relevant department must, on demand, be paid to it by the council; and
- (b) any sum demanded under paragraph (a) is a debt recoverable summarily by the relevant department from the council.

#### **International obligations**

**107.**—(1) If any Northern Ireland department considers that any action proposed to be taken by a council would be incompatible with any international obligations, that department may direct that the proposed action must not be taken.

(2) If any Northern Ireland department considers that any action capable of being taken by a council is required for the purpose of giving effect to any international obligations, that department may direct that the action shall be taken.

(3) A direction under this section must give the reasons for making the direction and may make provision having retrospective effect.

(4) In this section “international obligations” has the same meaning as in the Northern Ireland Act 1998.

## PART 15

### AMENDMENTS OF THE 2005 ORDER

#### **The local government auditor**

**108.**—(1) For Article 4 of the 2005 Order (local government auditors) there shall be substituted the following Article—

#### **“The local government auditor**

**4.**—(1) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate a member of the staff of the Northern Ireland Audit Office as the local government auditor.

(2) The local government auditor may make arrangements with the Comptroller and Auditor General for Northern Ireland for members of the staff of the Northern Ireland Audit Office to assist in the performance of the local government auditor’s functions.

(3) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate a member of the staff of the Northern Ireland Audit Office to be known as the deputy local government auditor.

(4) The deputy local government auditor has all the powers of the local government auditor but must exercise them subject to the direction and control of the local government auditor.

(5) The local government auditor must in respect of each financial year—

(a) prepare a report on the exercise of the local government auditor’s functions in that year; and

(b) send a copy of the report to each council and to the Department.

(6) Any sums payable by the local government auditor in consequence of any liability for breach of duty (whether arising under a contract or otherwise) incurred in the performance of the local government auditor’s functions are charged on and issued out of the Consolidated Fund.”

(2) In Schedule 1 to the Audit (Northern Ireland) Order 1987 (The Northern Ireland Audit Office: supplementary provisions), in paragraph 2(1)(b) for the words from “Article 4” to the end substitute “the discharge of the functions of the local government auditor”.

(3) In this Part “the 2005 Order” means the Local Government (Northern Ireland) Order 2005.

#### **Power to repeal provisions relating to surcharge, etc.**

**109.** The Department may by order repeal—

- (a) Articles 19 (declaration that item of account is unlawful) and 20 (recovery of amount not accounted for, etc.) of the 2005 Order;
- (b) the words “or surcharge” in section 10(3) of the New Towns Act (Northern Ireland) 1965,

and amend Articles 18(1) and 23(2) of the 2005 Order in consequence.

#### **Minor and consequential amendments**

**110.**—(1) In section 44 of the Interpretation Act (Northern Ireland) 1954 (definitions for local government purposes), in the definition of “local government auditor” for “a person” substitute “the person”.

(2) In section 10 of the New Towns Act (Northern Ireland) 1965 (accounts of new town commissions, and audit)—

- (a) in subsection (3) for “a local government auditor designated by the Ministry for that purpose” and “the auditor” substitute “the local government auditor”;
- (b) in subsection (4) for “a local government auditor” substitute “the local government auditor when”.

(3) In Schedule 3 to the Local Government Act (Northern Ireland) 1972 (Staff Commission), in paragraph 12 for “a local” substitute “the local”.

(4) Schedule 7 (which contains minor and consequential amendments of the 2005 Order) has effect.

## PART 16

### MISCELLANEOUS

#### *Guidance*

#### **Guidance**

**111.**—(1) The Department may issue guidance to councils for the purposes of this Act.

(2) Before issuing any guidance under this section the Department must consult councils and—

- (a) such associations or bodies representative of councils;



- (b) such associations or bodies representative of officers of councils; and
  - (c) such other persons or bodies,
- as appear to the Department to be appropriate.
- (3) A council must have regard to any guidance issued under this section.

### *Rates*

#### **Transitional rate relief in consequence of changes in local government districts**

**112.**—(1) Article 33A of the Rates (Northern Ireland) Order 1977 (transitional rate relief) is amended as follows.

(2) In paragraph (1), for the words “this Article” there shall be substituted the words “paragraph (2)”.

(3) In paragraph (2), for the word “Article” there shall be substituted the word “paragraph”.

(4) After paragraph (2) there shall be inserted the following paragraphs—

“(2A) Where paragraph (2B) applies, the Department may, by order subject to negative resolution,—

- (a) provide for such provisions of this Order as may be specified in the order not to apply or apply subject to modifications specified in the order; and
- (b) provide for so much of the amount of the sum chargeable in respect of rates due in respect of any hereditament as relates to a district rate to be such as is determined in accordance with rules specified in the order.

(2B) This paragraph applies if it appears to the Department necessary or expedient to make provision under paragraph (2A) in connection with changes to local government districts (including changes before the commencement of section 112(4) of the Local Government Act (Northern Ireland) 2014).

(2C) The Department must within two years of the making of an order under paragraph (2A) lay before the Assembly a report on the operation of any transitional rate relief scheme under that paragraph including—

- (a) the Department’s assessment of the likely or actual percentage increase in district rates payable by ratepayers in each affected district as a consequence of the termination of the scheme; and
- (b) consideration of possible further mitigating measures.”.

## Commencement of the Local Government (Boundaries) Order (Northern Ireland) 2012

**113.** In Article 1 of the [Local Government \(Boundaries\) Order \(Northern Ireland\) 2012 \(SR 2012 No 421\)](#) (citation and commencement), in paragraph (4) (commencement for the purposes of making and levying rates), for the words from the beginning to “come into effect on” there shall be substituted the words “This Order does not apply for the purposes of making and levying of rates, as provided in Part II of the Rates (Northern Ireland) Order 1977, in relation to a year beginning before”.

### *Transferred functions grant*

#### **Transferred functions grant**

**114.—(1)** In the Local Government Finance Act (Northern Ireland) 2011, after section 27 (rates support grant) there shall be inserted the following section —

#### **“Transferred functions grant**

**27A.—(1)** The Department shall for any prescribed financial year make a grant under this section to councils.

(2) In this section “transferred functions grant” means the grant payable under this section for any financial year.

(3) The transferred functions grant is payable only to a council which is a new council within the meaning of Part 2 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010.

(4) The amount of the transferred functions grant payable to a council for any financial year is the amount equal to the difference between—

(a) the amount of the product of the district rate for that year (within the meaning of the Rates (Northern Ireland) Order 1977) so far as it relates to the rateable net annual values of the hereditaments in the district of that council; and

(b) the amount which would have been the amount of that product if the total of the rateable net annual values of the hereditaments in the district of that council had been increased by a prescribed amount.

(5) Subsection (4) is subject to section 28 (reductions in grants) and to section 64(4) of the Local Government Act (Northern Ireland) 2014.

(6) Payments in respect of transferred functions grant shall be made to a council at such times as the Department may determine.”.

(2) In section 28 of that Act (reductions in grants), in subsections (2)(a) and (6)(b) and in the heading for “or 27” there shall be substituted “, 27 or 27A”.

*Contracts and disposals***Exclusion of non-commercial considerations**

**115.** In Article 19 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (council contracts: exclusion of non-commercial considerations), after paragraph (6) there shall be added the following paragraphs—

“(7) The Department may by order provide, in relation to councils, for a specified matter to cease to be a non-commercial matter for the purposes of this Article.

(8) An order under paragraph (7) may—

- (a) provide for a matter to cease to be a non-commercial matter for specified purposes or to a specified extent;
- (b) apply in relation to specified councils, functions or contracts;
- (c) amend a statutory provision;
- (d) include supplementary, incidental, consequential and transitional provisions.

(9) No order shall be made under paragraph (7) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.”

**Control of disposals and contracts of existing councils and their finances**

**116.—**(1) Chapter 2 of Part 2 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (control of disposals and contracts of existing councils) is amended as follows.

(2) At the end of the heading to Chapter 2 there shall be added the words “AND THEIR FINANCES”.

(3) In section 10 (control of disposals and contracts of existing councils)—

- (a) at the end of the heading there shall be added the words “and their finances”;
- (b) in subsection (1), after the words “consent of” there shall be added the words “its successor council or”;
- (c) at the end of subsection (1) there shall be added the following paragraphs—

“(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.”;

(d) in subsection (3), after the words “consent of” there shall be inserted the words “a successor council or”.

(4) In section 11 (directions: supplementary), in subsection (4)(b) after the words “council concerned and ” there shall be inserted the words “its successor council or”.

(5) In section 13 (referral to Department where consent refused or granted subject to conditions)—

(a) in subsection (1)—

(i) in paragraph (a), after the words “consent of” there shall be inserted the words “a successor council or”;

(ii) in paragraph (b), after the words “refused by” there shall be inserted the words “the successor council or”;

(b) in subsection (2), after the words “decision of” there shall be inserted the words “the successor council or”;

(c) in subsection (3), omit the words “of a statutory transition committee”;

(d) in subsection (4)(a), after the words “made by the” there shall be inserted the words “successor council or”.

#### *Payments for special purposes etc.*

#### **Payments for special purposes and public appeals**

**117.** In the Local Government Finance Act (Northern Ireland) 2011 the following provisions cease to have effect—

(a) section 37 (payments for special purposes);

(b) section 38 (restrictions on power to make payments under section 37); and

(c) section 40 (limit on expenditure on payments under section 37 and on public appeals).

#### *Persons ceasing to hold office and unqualified person*

#### **Persons ceasing to hold office**

**118.—**(1) A person who ceases to hold any office under this Act is, unless the person is not qualified or is disqualified, eligible to hold that office again.

(2) In subsection (1) “office” includes a position of responsibility.

(3) Subsection (1) does not apply if the person is not qualified or is disqualified to be elected or to be a councillor.

**Validity of acts done by unqualified person**

**119.**—(1) The validity of anything done by the holder of an office under this Act is not affected by that person not being qualified or being disqualified to be elected or to be a councillor.

(2) In subsection (1) “office” includes a position of responsibility.

*Power to dissolve Local Government Staff Commission***Power to dissolve the Local Government Staff Commission for Northern Ireland**

**120.** In section 40 of the Local Government Act (Northern Ireland) 1972 (Staff Commission), after subsection (8) there shall be added the following subsection—

“(9) The Department may by order make provision for, and in connection with, the dissolution of the Staff Commission and such an order may—

- (a) provide for the transfer of the functions, assets and liabilities of the Staff Commission to any other body or person; and
- (b) contain such incidental, consequential, transitional or supplementary provisions (including the modification or repeal of any statutory provision (including a provision of this Act)) as appear to the Department to be necessary or expedient.

(10) An order must not be made under subsection (9) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.”.

*Insurance***Insurance against accidents to councillors**

**121.**—(1) A council may insure against risks of a councillor meeting with a personal accident, whether fatal or not, while the councillor is engaged on the business of the council.

(2) Any sum received by the council under any such insurance must, after deduction of any expenses incurred in its recovery, be paid by the council to, or to the personal representatives of, the councillor in respect of an accident to whom that sum is received.

(3) The provisions of the Life Assurance Act 1774 as extended by the Life Insurance (Ireland) Act 1866 does not apply to any insurance under this section.

(4) In this section—

“council” includes a joint committee;

“councillor” includes a member of a committee or sub-committee of a council or a joint committee, whether the member is a member of the council or not;

“insurance” means a contract with any person whereby, in consideration of payments by the council by way of premium or otherwise, that person undertakes to pay to the council such sums as may be provided in the contract on the occurrence of a particular event.

### *Transfer schemes*

#### **Schemes for transfers of assets and liabilities**

**122.**—(1) The power conferred by subsection (2) is exercisable where it appears to any Northern Ireland department necessary or expedient as mentioned in section 124(1) or (2).

(2) Any Northern Ireland department may make one or more schemes for the transfer of designated assets or liabilities of that department or a local government body to a local government body.

(3) The power conferred by subsection (4) is exercisable by the Department for Social Development if it appears to that department necessary or expedient as mentioned in section 124(2).

(4) The Department for Social Development may make one or more schemes for the transfer of designated assets or liabilities of the Northern Ireland Housing Executive to a local government body.

(5) The Department of Culture, Arts and Leisure may make one or more schemes for the transfer of designated assets or liabilities of the Board of Trustees of the National Museums and Galleries of Northern Ireland relating to Armagh County Museum to the council for the district of Armagh, Banbridge and Craigavon.

(6) On the transfer date the designated assets or liabilities are transferred and vest in accordance with the scheme.

(7) Schedule 8 has effect.

(8) In this section “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme.

(9) In this section and Schedule 8—

“scheme” means a scheme under this section;

“the transfer date”, in relation to a scheme, means the date specified by the scheme as the date on which it is to have effect.

(10) In this section and Schedule 8 “local government body”—

(a) in relation to a transfer from a local government body does not include a successor council; and

- (b) in relation to a transfer to a local government body does not include an existing council.

### **Compensation for loss of office or diminution of emoluments**

**123.**—(1) This section applies to any person who at any time after the date on which this Act receives Royal Assent—

- (a) is employed by a local government body; and
- (b) suffers loss.

(2) In this section—

“local government body” includes the Local Government Staff Commission and a council whenever established;

“loss” means loss of employment or loss or diminution of emoluments which is attributable to any provision made by or under—

- (a) this or any other Act mentioned in subsection (1) of section 124;
- (b) any transfer of functions or any statutory provision falling within paragraph (a) or (b) of subsection (2) of that section.

(3) Compensation in respect of loss suffered by a person to whom this section applies is, subject to subsection (5), to be paid only in accordance with regulations made for the purposes of this section under Article 19 of the Superannuation (Northern Ireland) Order 1972; and accordingly no local government body is to pay any such compensation under any other statutory provision, by virtue of any provision in a contract or otherwise.

(4) Subsection (3) does not preclude the payment of compensation if it forms part of a severance arrangement which has been sanctioned by the Department. The Department must satisfy itself that the arrangement is reasonable.

(5) Subsection (3) does not preclude the making of any payment to which a person is entitled by virtue of contractual rights acquired by the person before 12th June 2012.

(6) Regulations under Article 19 of the Superannuation (Northern Ireland) Order 1972 must not provide compensation for a person to whom this section applies in respect of any loss so far as attributable to the termination on or before 1st April 2015 of a contract made after 12th June 2012 which provides for the employment of that person for a fixed term extending beyond the abolition date.

(7) For the purpose of determining under Article 173 or 176 of the Employment Rights (Northern Ireland) Order 1996—

- (a) whether the provisions of a new contract offered to a person employed by a local government body differ from the corresponding provisions of the previous contract; and

- (b) whether employment under the new contract is suitable in relation to that person,

there is to be treated as forming part of the remuneration payable under the new contract any compensation to which that person is or, if the person accepted the offer, would be entitled in accordance with this section.

(8) Except as provided in subsection (7), nothing in this section is to be construed as affecting any entitlement to a redundancy payment under Part 12 of the Employment Rights (Northern Ireland) Order 1996 or to any payment by virtue of any provision of the Superannuation (Northern Ireland) 1972 other than Article 19 of that Order.

*Provisions for the purposes of this Act and other purposes*

**Supplementary and transitional provisions for the purposes of this Act and other purposes**

**124.—**(1) The Department may by regulations make such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or expedient for the purposes of, or otherwise in connection with—

- (a) this Act;
- (b) the Local Government (Boundaries) Act (Northern Ireland) 2008; or
- (c) the Planning Act (Northern Ireland) 2011.

(2) Any Northern Ireland department may by regulations make such incidental, consequential, transitional or supplemental provision as appears to that department to be necessary or expedient for the purposes of, or otherwise in connection with—

- (a) any transfer of functions to a local government body, whether they are functions of that department or not, coming into operation on or before 1st April 2015; or
- (b) any statutory provision coming into operation on or before 1st April 2015 which confers functions on a local government body, whether this is expressed as transfer of functions or not.

(3) In this section “local government body” includes the Northern Ireland Housing Executive.

(4) Nothing in this section is to be taken as limiting the generality of any other statutory provision (including a provision of this Act) and nothing in any other statutory provision (including a provision of this Act) is to be taken as limiting the generality of this section.



(5) Regulations under this section which amend any statutory provision must not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

### *Council websites*

#### **Council websites**

**125.** The Department must by regulations specify a standard format for the domain names of council websites.

### *Supplementary*

#### **Interpretation**

**126.—(1)** In this Act—

“association” includes any body of persons, corporate or unincorporate;

“council” means a district council;

“councillor” means a member of a council;

“declaration” means declaration in writing;

“direction” means direction in writing;

“district” has the same meaning as in the Local Government Act (Northern Ireland) 1972;

“the Department” means the Department of the Environment;

“elected” includes appointed, nominated or otherwise selected or returned;

“external representative”, in relation to a council, has the meaning given by section 10(4);

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“joint committee” means a joint committee appointed under section 11(1);

“local elector” has the same meaning as in the Electoral Law Act (Northern Ireland) 1962;

“local government body” means a local government body within the meaning of Part 2 of the Local Government (Northern Ireland) Order 2005;

“notice” means notice in writing;

“owner” means the person for the time being receiving the rack rent of the land in connection with which the word is used, whether on that person’s own account or as agent or trustee for any other person, or who would so receive it if the land were let at a rack rent;

“prescribed” means prescribed by regulations;

“public body” means a body (other than a council) established by or under any statutory provision;

“qualified majority” has the meaning given by section 40;

“regulations”, except in sections 100, 124 and 127 means regulations made by the Department;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(2) In this Act—

(a) references to a district, council, chair or deputy chair include references to, respectively, a borough, borough council, mayor or deputy mayor;

(b) references to a councillor, except in relation to the nomination or election of councillors, include references to an alderman, and

(c) references to, or any references which are to be construed as references to, a borough, borough council, mayor or deputy mayor include references to, respectively, a city, city council, lord mayor or deputy lord mayor.

(3) References in this Act to the consent or approval of any authority are references to consent or approval in writing.

(4) For the purposes of this Act references to “publish” and “publication” are references to any communication, in whatever form, addressed to the public at large or to a section of the public.

### **Regulations and orders**

**127.**—(1) Before a Northern Ireland department makes regulations or orders to which this subsection applies it must consult councils and—

(a) such associations or bodies representative of councils;

(b) such associations or bodies representative of officers of councils; and

(c) such other persons or bodies,

as appear to it to be appropriate.

(2) Subsection (1) applies to any regulations and orders under this Act except regulations and orders under—

(a) section 1(2);

(b) section 30;

(c) section 76;

(d) section 100; or

(e) section 129.

(3) Regulations and orders to which this subsection applies must not be made unless a draft of the regulations or order has been laid before, and approved by a resolution of, the Assembly.

(4) Subsection (3) applies to regulations and orders which include provisions under—

- (a) section 20;
- (b) section 21;
- (c) section 38;
- (d) section 40;
- (e) section 41;
- (f) section 48;
- (g) section 51;
- (h) section 76;
- (i) section 82;
- (j) section 86;
- (k) section 101;
- (l) section 109;
- (m) in Part 2 of Schedule 1, paragraph 11(3);
- (n) paragraph 5 of Schedule 2.

(5) Except where otherwise provided, any other regulations under this Act and any other orders under this Act other than orders under sections 67, 106 and 129 are subject to negative resolution.

(6) Regulations and orders under this Act may contain such incidental, supplementary, consequential, transitional, transitory or saving provisions as the Northern Ireland department making them thinks necessary or expedient.

### **Minor and consequential amendments and repeals**

**128.**—(1) Schedule 9 (which contains minor and consequential amendments) has effect.

(2) The statutory provisions mentioned in the first column of Schedule 10 are repealed to the extent specified in the second column of that Schedule.

### **Commencement**

**129.**—(1) Subject to subsection (2), this Act comes into operation on such day or days as the Department may by order appoint.

(2) The following provisions come into operation on the day after the day on which this Act receives Royal Assent—

- (a) this section;
- (b) section 130.

**Short title**

**130.** This Act may be cited as the Local Government Act (Northern Ireland) 2014.

## SCHEDULES

### SCHEDULE 1

Section 6(3).

#### POSITIONS OF RESPONSIBILITY

#### PART 1

#### FILLING POSITIONS OF RESPONSIBILITY BY NOMINATION

##### *Application of this Part*

1. The following provisions of this Part apply unless at the first annual meeting after a local general election the council by resolution passed by a qualified majority decides that Part 2 applies.

##### *Selection of positions of responsibility etc. by nominating officers*

2.—(1) At the first annual meeting of a council after a local general election the nominating officer of the party for which the formula in paragraph 3 gives the highest figure may select—

- (a) a position of responsibility; and
- (b) a term for which it may be held.

(2) The term selected must be a term beginning before the date of the next local general election and if the nominating officer selects the term beginning with the date of the meeting, the nominating officer must also nominate to hold the selected position of responsibility for the selected term a member of the council who stood in the name of the nominating officer's party when elected.

(3) If—

- (a) the nominating officer does not exercise any function conferred by sub-paragraph (1) or (2) within a period specified in standing orders; or
- (b) the person nominated under sub-paragraph (2) does not take up the selected position of responsibility within that period,

that function becomes exercisable by the nominating officer of the party for which the formula in paragraph 3 gives the next highest figure.

(4) Sub-paragraphs (1) to (3) must be applied as many times as may be necessary to secure that every position of responsibility has been selected (treating the holding

of a position of responsibility for each term as a separate position of responsibility and disregarding any selection where sub-paragraph (3)(b) applies).

*The formula*

3.—(1) Subject to sub-paragraphs (2) and (3), the formula is—

$$\frac{S}{1 + M}$$

where—

- S = the number of members of the council who stood in the name of the party when elected;
- M = the number of positions of responsibility (if any) which are held by such members of the council (treating the holding of a position of responsibility for each term as a separate position of responsibility).

(2) If at the first annual meeting after a local general election the council by resolution passed by a qualified majority so decides, the formula in sub-paragraph (1) has effect as if M were doubled.

(3) Where the figures given by the formula for two or more parties are equal, each of those figures shall be recalculated with S being equal to the number of first preference votes cast for the party at the last local general election.

*Vacancies*

4.—(1) Where a position of responsibility becomes vacant before the end of the term for which it is held, the nominating officer of the party on whose behalf the previous incumbent was nominated may nominate to hold the position of responsibility for the remainder of the term a member of the council who stood in the name of the party when elected.

(2) If—

- (a) the nominating officer does not exercise the power conferred by sub-paragraph (1) within a period specified in standing orders; or
- (b) a person nominated under sub-paragraph (1) does not take up the position of responsibility within that period,

the vacancy must be filled by applying paragraphs 2 and 3 within a period specified in standing orders.

*Selection of members at subsequent annual meetings*

5.—(1) At each subsequent annual meeting each nominating officer of a party must select a member of the council who stood in the name of that party when elected to hold for the next term each position of responsibility selected by the nominating officer of that party under paragraph 2.

(2) In this paragraph—

“next term”, in relation to a subsequent annual meeting, means the term beginning with that meeting;

“subsequent annual meeting” means an annual meeting of the council after the annual meeting mentioned in paragraph 2(1) but before the next local general election.

(3) This paragraph does not apply in relation to a position of responsibility specified at section 6(1)(e) (member of a cabinet-style executive of the council) or section 6(1)(f) (external representative of the council).

*New positions of responsibility*

6.—(1) Where a new position of responsibility arises after the annual meeting mentioned in paragraph 2(1), then at the next meeting of the council (which need not be an annual meeting) the nominating officer of the party for which the formula in paragraph 3 gives the highest figure may select a term beginning before the date of the next local general election for which the new position of responsibility may be held.

(2) The first term begins with the date of the meeting and if the nominating officer selects that term, the nominating officer must also nominate to hold the new position of responsibility for that term a member of the council who stood in the name of the nominating officer’s party when elected.

(3) If—

(a) the nominating officer does not exercise any function conferred by sub-paragraph (1) or (2) within a period specified in standing orders; or

(b) the person nominated under sub-paragraph (2) does not take up the new position of responsibility within that period,

that function becomes exercisable by the nominating officer of the party for which the formula in paragraph 3 gives the next highest figure.

(4) Sub-paragraphs (1) to (3) must be applied as many times as may be necessary to secure that—

(a) each term has been selected for that position of responsibility; and

(b) in relation to the term beginning with the date of the meeting a person has taken up that position of responsibility.

## PART 2

### FILLING POSITIONS OF RESPONSIBILITY BY ELECTION

#### *Application of this Part*

7. This Part applies only if the council so decides as mentioned in paragraph 1.

#### *Election to positions of responsibility*

8. At the first annual meeting of a council after a local general election the council must for each term elect a member of the council to hold each position of responsibility.

#### *Vacancies*

9. Where a position of responsibility becomes vacant before the end of the term for which it is held, then, unless standing orders otherwise provide, the council must at the next meeting of the council elect a member of the council to hold the position of responsibility for the remainder of the term.

#### *New positions of responsibility*

10. Where a new position of responsibility arises after the annual meeting mentioned in paragraph 8, the council must for each term elect a member of the council to hold that position of responsibility.

#### *Method of election*

- 11.—(1) Elections under this Part must be by single transferable vote.
- (2) A single transferable vote is a vote—
- (a) capable of being given so as to indicate the voter's order of preference for the candidates; and
  - (b) capable of being transferred to the next choice when the vote is not needed to give a prior choice the necessary quota of votes or when a prior choice is eliminated from the list of candidates because of a deficiency in the number of votes given for that person.
- (3) The Department may by order make provision about elections under this Part or any matter relating to them.



## PART 3

### CHAIRS AND DEPUTY CHAIRS

#### *Chairs and deputy chairs of council and committees*

**12.**—(1) In relation to each council there must be—

- (a) a chair of the council; and
- (b) if the council so determines, a deputy chair of the council.

(2) Neither the chair nor the deputy chair of a council may hold any other position of responsibility while chair or deputy chair unless the position of responsibility falls within section 6(1)(f).

(3) In relation to each committee of a council there must be—

- (a) a chair of the committee; and
- (b) if the council so determines, a deputy chair of the committee.

(4) In sub-paragraph (3) “committee” includes “sub-committee”.

#### *Chair of council continues until successor takes up office*

**13.**—(1) Until a successor takes up office the chair of a council continues—

- (a) to hold office as chair of the council; and
- (b) to be a member of the council, notwithstanding section 11(2)(c) of the 1962 Act (members of council retire on day after election day) if that provision would otherwise apply.

(2) Sub-paragraph (1) ceases to apply if the chair of the council resigns or is disqualified.

#### *Chair of council ceases to hold office if absent from district*

**14.**—(1) The chair of a council who is continuously absent from the district of the council, except in case of illness, for a period exceeding three months, ceases as from the expiration of that period to hold office as chair.

(2) Where a person ceases to be chair of a council under sub-paragraph (1), the council must forthwith declare the office of chair vacant and publish a notice to that effect.

(3) The notice must be signed by the clerk of the council.

*Deputy chair of council*

15.—(1) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chair in relation to the business of the council may be done by, to or before the deputy chair.

(2) Notwithstanding anything in section 18(3)(a) of the Interpretation Act (Northern Ireland) 1954, no function is exercisable by or in relation to a deputy mayor or a deputy lord mayor that is not exercisable by or in relation to any other deputy chair of a council.

## PART 4

## GENERAL

*Interpretation*

16.—(1) In this Schedule—

“1962 Act” means the Electoral Law Act (Northern Ireland) 1962;

“2000 Act” means the Political Parties, Elections and Referendums Act 2000;

“local general election” has the same meaning as in the 1962 Act;

“nominating officer”, in relation to a party, means—

- (a) the person registered under the 2000 Act as the party’s nominating officer; or
- (b) a member of the council nominated by that person for the purposes of this Schedule;

“party” means a party registered under the 2000 Act in the Northern Ireland register (within the meaning of that Act);

“position of responsibility” means a position of responsibility mentioned in section 6(1);

“term” means the period between one annual meeting and another, subject to sub-paragraphs (6) to (8).

(2) References in this Part to a person who stood—

- (a) in the name of a party; or
- (b) in the name of two or more parties; or
- (c) as an independent,

when elected have the same meaning as in Part 3 of the 1962 Act by virtue of section 11 of that Act, subject to sub-paragraph (4).

(3) In this Part, in the case of a person who stood in the name of two or more parties when elected (“A”)—

- (a) references to the nominating officer are to be taken as references to the nominating officers of each of the parties acting jointly; and
  - (b) for the purposes of references to a person having stood in the name of a party when elected, A is to be treated as having stood in the name of a separate party, which is neither of the parties in whose name the person stood when elected.
- (4) A person who stood as an independent when elected is to be treated for the purposes of this Schedule—
- (a) as having stood in the name of a party when elected; and
  - (b) as being the nominating officer of that party and the sole member of the council who stood in the name of that party when elected.
- (5) In paragraph 3(3), in relation to a person who—
- (a) is a member of the council by virtue of having filled a casual vacancy in the seat of a member of the council; and
  - (b) is treated by virtue of sub-paragraph (3)(b) or (4)(b) as having stood in the name of a party which is different from the party in whose name the person (“X”) elected to that seat at the last local general election stood (or is treated as having stood),
- S is to be treated as equal to the number of first preference votes cast for the party in whose name X stood (or is treated as having stood) at the last local general election.
- (6) If during a term all the members of the council retire by virtue of section 11(2)(c) of the 1962 Act, the term ends when the members of the council so retire.
- (7) In this Schedule “term”, in relation to a member of a cabinet-style executive of the council, means the period beginning with the date of the meeting at which the member is nominated or elected, as the case may be, and ending when the members of the council retire by virtue of section 11(2)(c) of the 1962 Act.
- (8) Subject to sub-paragraph (6), in this Schedule “term”, in relation to an external representative of the council, means the period for which that representative is nominated or elected to serve.

*Cases where persons cease to hold positions of responsibility*

- 17.—(1) A person ceases to hold a position of responsibility if that person—
- (a) resigns by notice in writing to the clerk of the council;
  - (b) ceases to be a member of the council otherwise than by virtue of section 11(2)(c) of the 1962 Act; or
  - (c) is dismissed by the nominating officer of the party in whose name the person stood when elected and the clerk of the council is notified of the dismissal.

- (2) Paragraph 16(4)(b) does not apply for the purposes of sub-paragraph (1)(c).

## SCHEDULE 2

Section 13.

## APPOINTMENT OF COUNCILLORS TO COMMITTEES, ETC.

*Exclusion of positions of responsibility*

1. Paragraphs 2 to 4 do not apply if Schedule 1 applies.

*Appointment of councillors to committees*

- 2.—(1) Where a council appoints a committee—

- (a) the council must decide how many places on the committee must be filled by councillors, being at least two-thirds of the total number of places on that committee; and
- (b) the nominating officer (within the meaning of Schedule 1) of each party may nominate as members of the committee the relevant number of councillors who stood in the name of that party when elected.

- (2) The relevant number must be calculated in accordance with the formula—

$$\frac{S}{Q}$$

where—

S = the number of councillors who stood in the name of the party when elected;

Q = the quota calculated in accordance with paragraph 3.

- (3) If the number produced by the formula (“N”) is not a whole number, that number must be rounded down to the nearest whole number (“W”).

(4) If insufficient members are nominated, the nominating officer of the party with the greatest remainder may nominate another councillor to be a member of the committee and so on until sufficient members have been nominated.

(5) In sub-paragraph (4) “remainder”, in relation to a political party, means N minus W.

(6) If the figures given by sub-paragraph (5) in relation to two or more parties are equal, the nominating officer of whichever of those parties is the party for which the greatest number of first preference votes was cast at the last local general election is to be treated as the nominating officer of the party with the greatest remainder for the purposes of sub-paragraph (4), then the nominating officer of whichever of

those parties is the party for which the next greatest number of first preference votes was cast at the last local general election and so on.

### *Quota*

3.—(1) The quota for the purposes of paragraph 2 must be calculated in accordance with the formula in this paragraph.

(2) Subject to sub-paragraph (3), the formula is—

$$\frac{T}{C}$$

where—

T = the number of councillors elected at the last local general election;

C = the number of places on the committee which must be filled by councillors (including the chair and any deputy chair).

(3) If the council by resolution passed by qualified majority voting so decides, sub-paragraph (2) has effect as if the formula were—

$$\frac{T}{C+1} + 1$$

### *Vacancies*

4. Regulations may make provision in relation to the filling of vacancies on committees.

### *Appointment of more than one committee*

5. Standing orders shall provide for the application of paragraphs 2 to 4 in circumstances where a council decides to appoint more than one committee.

### *Joint committees*

6. Regulations may provide for paragraphs 2 to 4 to apply in relation to joint committees subject to such modifications as may be prescribed.

## SCHEDULE 3

Section 16.

DECLARATION ON APPOINTMENT TO COMMITTEE  
OF PERSON WHO IS NOT A COUNCILLOR

Having been appointed as a member of [*name the committee*]

I declare that I accept the appointment and that I will duly and faithfully fulfil the duties of a member of that committee to the best of my judgment and ability.

I affirm that I have read and in the performance of my functions as a member of that committee will observe the Northern Ireland Local Government Code of Conduct for Councillors (as revised from time to time).

## SCHEDULE 4

Section 28(5).

OVERVIEW AND SCRUTINY COMMITTEES:  
VOTING RIGHTS OF CO-OPTED MEMBERS*Voting rights schemes*

1.—(1) A council may permit a co-opted member of an overview and scrutiny committee of the council to vote at meetings of the committee.

(2) Permission under sub-paragraph (1) may only be given in accordance with a scheme made by the council.

(3) A scheme for the purposes of this paragraph may include—

- (a) provision for a maximum or minimum in relation to the number of co-opted members of an overview and scrutiny committee entitled to vote at meetings of the committee, and
- (b) provision for giving effect to any maximum or minimum established under head (a).

(4) The power to make a scheme for the purposes of this paragraph includes power to vary or revoke such a scheme.

(5) In this paragraph, references to a co-opted member, in relation to an overview and scrutiny committee of a council, are to a member of the committee who is not a member of the council.

*Regulations*

2.—(1) The Department may by regulations make provision about the exercise of the powers under paragraph 1.

(2) Regulations under sub-paragraph (1) may, in particular, require schemes for the purposes of paragraph 1 (“voting rights schemes”)—

- (a) to provide for permission to be given only by means of approving a proposal by the committee concerned;
- (b) to provide for a proposal for the purposes of the scheme (“a scheme proposal”) to specify—
  - (i) the person to whom the proposal relates,
  - (ii) the questions on which it is proposed the person should be entitled to vote, and
  - (iii) the proposed duration of the person’s entitlement to vote,and to include such other provision about the form and content of such a proposal as the regulations may provide;
- (c) to provide for a scheme proposal to be made only in accordance with a published statement of the policy of the committee concerned about the making of such proposals;
- (d) to include such provision about the procedure to be followed in relation to the approval of scheme proposals as the regulations may provide.

(3) Regulations under sub-paragraph (1) may include provision for the notification to the Department by councils of the making, variation or revocation of voting rights schemes.

(4) The Department may by direction require a council to vary a voting rights scheme.

**3.—**(1) A council which makes a scheme for the purposes of paragraph 1 must, while the scheme is in force, make copies of it available at its principal office at all reasonable hours for inspection by members of the public.

(2) If a council makes a scheme for the purposes of paragraph 1, or varies or revokes such a scheme, it must as soon as reasonably practicable after doing so publish in one or more newspapers circulating in its area a notice which complies with this paragraph.

(3) In the case of the making of a scheme, the notice under sub-paragraph (2) must—

- (a) record the making of the scheme,
- (b) describe what it does,
- (c) state that copies of it are available for inspection at the principal office of the council, and
- (d) specify—
  - (i) the address of that office, and
  - (ii) the times when the scheme is available for inspection there.

(4) In the case of the variation of a scheme, the notice under sub-paragraph (2) must—

- (a) record the variation,
- (b) describe what it does,
- (c) state that copies of the scheme as varied are available for inspection at the principal office of the council, and
- (d) specify—
  - (i) the address of that office, and
  - (ii) the times when the scheme is available for inspection there.

(5) In the case of the revocation of a scheme, the notice under sub-paragraph (2) must record the revocation.

## SCHEDULE 5

Section 36.

### MEETINGS AND PROCEEDINGS

#### *Annual meetings*

1.—(1) A council must hold an annual meeting in June every year unless it is a local election year.

(2) In a local election year the annual meeting must be held within 21 days from the election day.

(3) The council may fix the time and the place at which the annual meeting is to be held.

(4) If the council does not fix a time, the annual meeting must be held at twelve noon.

(5) If the council does not fix a place, the annual meeting must be held at the offices of the council.

#### *Other meetings for transaction of general business*

2. The council may hold such other meetings as the council thinks necessary for the transaction of general business.

#### *Convening meetings*

3. The chair may call a meeting of the council at any time.



*Requisition for meeting*

4.—(1) If a requisition from not less than five members of the council is served on the chair, the chair must call a meeting of the council to be held within 14 days from the date on which the requisition is served.

(2) If the chair—

(a) refuses to call a meeting of the council; or

(b) does not call a meeting of the council within seven days from the date on which the requisition is served,

not less than five members of the council may on that refusal or on the expiration of those seven days call a meeting of the council.

*Notice of meeting and summons to attend*

5.—(1) At least three days before a meeting of the council—

(a) notice of the time and place of the intended meeting must be published at the offices of the council; and

(b) a summons to attend the meeting must be served on every member of the council.

(2) If the meeting is called by members of the council, the notice under sub-paragraph (1)(a) must—

(a) be signed by them; and

(b) specify the business proposed to be transacted at the meeting.

(3) A summons under sub-paragraph (1)(b) must—

(a) be signed by the clerk of the council; and

(b) specify the business proposed to be transacted at the meeting.

(4) Failure to serve a summons under sub-paragraph (1)(b) does not affect the validity of a meeting.

*Who presides at meetings*

6.—(1) The chair of the council, if present, must preside.

(2) If the chair of the council is absent, the deputy chair, if present, must preside.

(3) If neither the chair nor the deputy chair is present, a member of the council chosen by the members who are present must preside.

(4) No member of a council executive may preside at a meeting of the council.

(5) Sub-paragraphs (1) to (3) are subject to sub-paragraph (4).

### *Quorum*

7.—(1) Subject to sub-paragraph (2), no business may be transacted at a meeting of the council unless at least one-quarter of the whole number of members are present.

(2) Where more than one-quarter of the members become disqualified at the same time, then, until the number of members in office is increased to not less than three-quarters of the whole number of members, the quorum of the council is determined by reference to the number remaining qualified instead of by reference to the whole number of members.

### *Names of members present to be recorded*

8. The names of the members present at a meeting of the council must be recorded.

### *Person authorised by the Department may attend meetings*

9. A person who is authorised in writing by the Department to do so is entitled at the request or with the agreement of the council to attend any meeting of the council and take part in the proceedings at the meeting but may not vote.

### *Minutes*

10.—(1) Minutes of the proceedings of a meeting of the council must be signed at the same or the next suitable meeting of the council by the person presiding at that meeting if approved by the meeting at which they fall to be signed.

(2) Any minute purporting to be signed as mentioned in sub-paragraph (1) must be received in evidence without further proof.

(3) Until the contrary is proved—

- (a) a meeting of a council in respect of the proceedings of which a minute has been made and signed as mentioned in sub-paragraph (1) must be taken to have been duly convened and held; and
- (b) all the members present at the meeting must be taken to have been duly qualified.

### *Vacancies, etc., not to invalidate proceedings*

11. The proceedings of a council are not invalidated by—

- (a) any vacancy among its number; or
- (b) any defect in the election or qualification of any of its members.

*Committees, sub-committees and joint committees*

**12.** Paragraphs 8 to 11 apply to a committee or sub-committee of a council and to a joint committee as they apply to the council but in relation to proceedings of a committee or sub-committee or of a joint committee paragraph 10(3) as applied by this paragraph has effect as if there were added—

““; and

- (c) where the proceedings are proceedings of a committee or sub-committee or of a joint committee, the committee or sub-committee or the joint committee must be taken to have been duly constituted and to have had power to deal with the matters referred to in the minutes.”.

*Interpretation*

**13.** In this Schedule—

“election day”; and

“local election year”,

have the same meanings as in the Electoral Law Act (Northern Ireland) 1962; and “election” is to be construed in accordance with the definition of “elected” in the Local Government Act (Northern Ireland) 1972.

SCHEDULE 6

Section 51.

ACCESS TO INFORMATION: EXEMPT INFORMATION

PART 1

DESCRIPTIONS OF EXEMPT INFORMATION

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the council holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the council or a government department and employees of, or office holders under, the council.
5. Information in relation to which a claim to legal professional privilege could be maintained in legal proceedings.

6. Information which reveals that the council proposes—
  - (a) to give under any statutory provision a notice by virtue of which requirements are imposed on a person; or
  - (b) to make an order or direction under any statutory provision.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

## PART 2

### QUALIFICATIONS

8. Information falling within paragraph 3 is not exempt information by virtue of that paragraph if it is required to be registered under—
  - (a) the Industrial and Provident Societies Act (Northern Ireland) 1969;
  - (b) the Friendly Societies Act 1974;
  - (c) the Credit Unions (Northern Ireland) Order 1985;
  - (d) the Building Societies Act 1986;
  - (e) the Friendly Societies Act 1992;
  - (f) the Companies Acts (as defined in section 2 of the Companies Act 2006);
  - (g) the Charities Act (Northern Ireland) 2008.
9. Information which—
  - (a) falls within any of paragraphs 1 to 7; and
  - (b) is not prevented from being exempt by virtue of paragraph 8,

is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## PART 3

### INTERPRETATION

- 10.—(1) In this Schedule—
  - “employee” means a person employed under a contract of service;
  - “financial or business affairs” includes contemplated, as well as past or current, activities;
  - “labour relations matter” means—
    - (a) any of the matters specified in sub-paragraphs (a) to (g) of Article 96(1) of the Industrial Relations (Northern Ireland) Order 1992 (matters which

may be the subject of a trade dispute, within the meaning of Part 11 of that Order); or

(b) any dispute about a matter falling within paragraph (a) of this definition; and for the purposes of this definition the provisions mentioned in paragraph (a), with the necessary modifications, shall apply in relation to office-holders under the council as they apply in relation to employees of the council;

“office-holder”, in relation to the council, means the holder of any paid office appointments to which are or may be made or confirmed by the council or by any joint board on which the council is represented or by any person who holds any such office or is an employee of the council;

“registered”, in relation to information required to be registered under the Building Societies Act 1986, means recorded in the public file of any building society (within the meaning of that Act).

(2) Any reference in this Schedule to “the council” is a reference to the council or, as the case may be, the committee or sub-committee in relation to whose proceedings or documents the question whether information is exempt or not falls to be determined and includes a reference—

(a) in the case of a council, to any committee or sub-committee of the council; and

(b) in the case of a committee, to—

(i) any constituent council;

(ii) any other council by which appointments are made to the committee or whose functions the committee discharges; and

(iii) any other committee or sub-committee of a council falling within sub-head (i) or (ii); and

(c) in the case of a sub-committee, to—

(i) the committee, or any of the committees, of which it is a sub-committee; and

(ii) any council which falls within head (b) in relation to that committee.

## SCHEDULE 7

Section 110.

MINOR AND CONSEQUENTIAL AMENDMENTS  
RELATING TO LOCAL GOVERNMENT AUDIT*Local Government (Northern Ireland) Order 2005 (NI 18)*

1. In Article 3 (audit of accounts of councils, etc.), in paragraph (1)(b) for the words from “a local government auditor” to the end substitute “the local government auditor”.

2.—(1) Amend Article 5 (code of audit practice) as follows.

(2) In paragraph (1)—

(a) omit “chief”;

(b) for “auditors are to carry out their functions under this Part” substitute “the functions of the local government auditor under this Part are to be carried out”.

(3) In paragraph (2)—

(a) omit “chief”;

(b) for “auditors” substitute “the local government auditor”.

(4) In paragraphs (4), (5), (6) and (8) omit “chief”.

3.—(1) Amend Article 6 (general duties of local government auditors) as follows.

(2) In paragraph (1) for “a local” substitute “the local”.

(3) In paragraph (2) for “auditor” substitute “local government auditor”.

(4) In the heading for “local government auditors” substitute “the local government auditor”.

4.—(1) Amend Article 7 (auditors’ right to documents and information) as follows.

(2) In paragraph (1) for “A” substitute “The”.

(3) In paragraph (2) for “A” substitute “The”.

(4) In paragraph (3) before “auditor” insert “local government”.

(5) In paragraphs (4) and (5) for “an auditor” substitute “the local government auditor”.

(6) In paragraph (6)—

(a) for “a local” substitute “the local”;

(b) in sub-paragraph (a) before “auditor” insert “local government”.

(7) In paragraph (7) for “an auditor” substitute “the local government auditor”.

(8) In the heading for “Auditors’ right” substitute “Right”.

5. In Article 8 (audit fees) for “local government auditors such fees as the Department” substitute “the local government auditor such fees as the local government auditor”.

6.—(1) In Article 9 (immediate and other reports in the public interest) for “a local government auditor” substitute “the local government auditor”.

(2) In the cross-heading preceding that Article for “Auditors’ reports” substitute “Reports”.

7.—(1) Amend Article 10 (general report) as follows.

(2) In paragraph (1) for “a local” substitute “the local”.

(3) In paragraph (2) for “an auditor” substitute “the local government auditor”.

8.—(1) Amend Article 11 (transmission and consideration of Article 9 reports) as follows.

(2) In paragraphs (1) and (2) before “auditor” insert “local government”.

9.—(1) Amend Article 12 (consideration of reports or recommendations) as follows.

(2) In paragraph (2)—

(a) in sub-paragraph (a) for “a local” substitute “the local”;

(b) in sub-paragraph (b) before “auditor” insert “local government”.

(3) In paragraph (5) for “an auditor” and “the auditor” substitute in each case “the local government auditor”.

10.—(1) Amend Article 13 (publicity for meeting under Article 12) as follows.

(2) In paragraph (1)(b) for “an auditor’s” substitute “the local government auditor’s”.

(3) In paragraph (2)—

(a) in sub-paragraph (a) for “auditor of its accounts” substitute “local government auditor”;

(b) in sub-paragraph (b) before “auditor” insert “local government”.

11.—(1) Amend Article 14 (additional publicity for immediate report) as follows.

(2) In paragraph (1) for “a local government auditor” substitute “the local government auditor”.

(3) In paragraph (5) before “auditor” insert “local government”.

**12.—**(1) Amend Article 15 (additional publicity for non-immediate report) as follows.

(2) In paragraph (1) for “a local government auditor” substitute “the local government auditor”.

(3) In paragraph (3)(b) before “auditor” insert “local government”.

**13.—**(1) Amend Article 16 (inspection of statements of accounts and auditors’ reports) as follows.

(2) In paragraph (1)(b) for “a local” substitute “the local”.

(3) In the heading for “auditors” substitute “auditor’s”.

**14.** In Article 17 (inspection of documents and questions at audit), in paragraph (2) before “auditor” in both places where it occurs insert “local government”.

**15.—**(1) Amend Article 18 (right to make objections at audit) as follows.

(2) In paragraph (1) before “auditor” in each place where it occurs insert “local government”.

(3) In paragraph (2) before “auditor” insert “local government”.

(4) In paragraph (3) for “an auditor” substitute “the local government auditor”.

**16.—**(1) Amend Article 21 (power of auditor to apply for judicial review) as follows.

(2) In paragraph (1) for “a local government auditor” substitute “the local government auditor”.

(3) In paragraph (2) for “a local” substitute “the local”.

(4) In the heading before “auditor” insert “the local government”.

**17.** In Article 22 (extraordinary audits and inspections), in paragraph (1) for “a local” substitute “the local”.

**18.** In Article 23 (provision for the audit of accounts of officers), in paragraph (1) for “auditor of the accounts of that body” substitute “local government auditor”.

**19.—**(1) Amend Article 25 (certification of claims, returns, etc.) as follows.

(2) In paragraph (1)—

(a) omit “chief”;

(b) in sub-paragraph (c) for “body’s” substitute “local government”.

(3) In paragraph (2) for “Department” substitute “local government auditor”.

**20.—**(1) Amend Article 26 (studies for improving economy, efficiency and effectiveness) as follows.



(2) In paragraph (1) for “A local government auditor shall, if required by the Department or the chief local government auditor,” substitute “The local government auditor may and, if required by the Department, shall”.

(3) In paragraph (2)—

(a) for the words from the beginning to “consult” substitute “Before undertaking any study under paragraph (1) the local government auditor shall consult”;

(b) omit “Department or the chief” in the second place where it occurs.

(4) In paragraph (3) omit “concerned”.

(5) For paragraph (4) substitute—

“(4) Except in the case of a study required by the Department, the local government auditor shall publish or otherwise make available—

(a) the results of the study; and

(b) any recommendations made by the local government auditor as a result of the study.”.

**21.—**(1) Amend Article 27 (restriction on disclosure of information) as follows.

(2) In paragraph (1) for “an auditor” substitute “the local government auditor”.

(3) In paragraph (2)(b) for “an auditor” substitute “the local government auditor”.

## SCHEDULE 8

Section 122(7).

### TRANSFER SCHEMES

#### *Transfer of assets and liabilities*

**1.—**(1) A scheme—

(a) may provide for the transfer of assets and liabilities which would not otherwise be capable of being transferred;

(b) accordingly has effect in relation to assets or liabilities to which it applies in spite of any provision (of whatever nature) which would otherwise prevent or restrict the transfer of those assets or liabilities;

(c) may contain supplementary, incidental, transitional and consequential provisions.

(2) A scheme may define the assets and liabilities to be transferred by specifying or describing them (including describing them by reference to a specified part of the transferor’s undertaking).

(3) A certificate issued by the Northern Ireland department concerned that any assets or liabilities specified in the certificate have vested in any body by virtue of a scheme is conclusive evidence for all purposes of that fact.

(4) In this Schedule, in relation to any assets or liabilities transferred by a scheme

—  
“transferor” means the body from which those assets or liabilities are transferred; and

“transferee” means the body to which those assets or liabilities are transferred.

#### *Transfer of staff*

2.—(1) This paragraph applies if rights and liabilities under a contract of employment are transferred by virtue of a scheme.

(2) The [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#) apply to the transfer whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of the regulations.

(3) The scheme shall—

- (a) in relation to each transferee, identify the transferring employees (whether by name or otherwise);
- (b) include provision securing pension protection for such employees;
- (c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the scheme; and
- (d) include provision for the payment of compensation by the transferee to any such employee who suffers loss or detriment in consequence of the scheme.

(4) Before making the scheme the Northern Ireland department concerned must consult—

- (a) in the case of a scheme which identifies transferring employees by name, those employees; and
- (b) in the case of a scheme which identifies transferring employees in any other way, such persons as appear to the department to be representative of transferring employees.

(5) For the purposes of this paragraph—

- (a) “pension protection” is secured for a transferring employee if after the change of employer effected by the scheme the employee has, as an employee of the transferee, rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the transferring employee had as an employee of the transferor;

- (b) “transferring employee” means an employee whose contract of employment becomes, by virtue of sub-paragraph (2), a contract of employment with a transferee; and
  - (c) employment in the Northern Ireland civil service for the purposes of a government department is to be treated as employment by that department under a contract of employment (and the terms of that employment are to be regarded as constituting the terms of that contract).
- (6) Procedures under sub-paragraph (3)(c) must involve consideration of grievances by a person other than—
- (a) a member, or member of staff, of a transferor or transferee; or
  - (b) a member of staff of the Northern Ireland department concerned.

### *Continuity*

- 3.—(1) In any statutory provision or document—
- (a) which relates to anything transferred by virtue of the scheme, and
  - (b) which is in effect immediately before the transfer date,
- any reference to the transferor is, in relation to any time after the transfer date, to be construed as a reference to the transferee.
- (2) Sub-paragraph (1) applies unless contrary provision is made by or under this Act or the context otherwise requires.
- (3) A transfer by virtue of a scheme does not affect the validity of anything done by, or in relation to, the transferor before the transfer date.
- (4) Anything which—
- (a) before the transfer date was done by or in relation to the transferor for the purposes of or otherwise in connection with anything transferred by virtue of a scheme, and
  - (b) is in effect immediately before the transfer date,
- continues to have effect to the same extent and subject to the same provisions as if it had been done by, or in relation to, the transferee.
- (5) Anything (including any legal proceedings) which—
- (a) relates to anything transferred by virtue of a scheme, and
  - (b) is in the process of being done by or in relation to the transferor immediately before the transfer date,
- may be continued by or in relation to the transferee.

## SCHEDULE 9

Section 128(1).

## MINOR AND CONSEQUENTIAL AMENDMENTS: GENERAL

*Local Government Act (Northern Ireland) 1972 (c.9)*

1. In section 9 (vacation of office on account of non-attendance)—
  - (a) in subsection (1), for “and (3)” substitute “to (4)”;
  - (b) after subsection (3) add—
 

“(4) Any period during which a councillor is suspended or partially suspended under Part 9 of the Local Government Act (Northern Ireland) 2014 is to be disregarded for the purpose of calculating the period of six months under subsection (1) (and accordingly—

    - (a) a period during which a councillor fails to attend meetings of the council that falls immediately before, and
    - (b) a period during which a councillor fails to attend meetings of the council that falls immediately after,

a period of suspension or partial suspension are to be treated as consecutive).”.
2. In section 42 (councillors not to be appointed officers)—
  - (a) after “paid office” insert “which is prescribed under section 4(1)(a)”;
  - (b) omit subsection (2).
3. In section 143 (orders and regulations), for “115(2A)” substitute “4(1)(a) or 115(2A)”.
4. In Part 1 of Schedule 1 (declaration of councillor on acceptance of office), for “be guided by the Northern Ireland code of local government conduct” substitute “observe the Northern Ireland Local Government Code of Conduct for Councillors (as revised from time to time)”.

*Deregulation and Contracting Out (Northern Ireland) Order 1996 (NI 11)*

5. In Article 2(2) (interpretation), in the definition of “joint committee” for the words from “means” to the end substitute “has the same meaning as in the Local Government Act (Northern Ireland) 2014”.

*Local Government (Northern Ireland) Order 2005 (NI 18)*

- 6.—(1) In Article 12(7) (consideration of reports or recommendations), for “18, 19 or 47A of the principal Act” substitute “7 or 9 of the Local Government Act (Northern Ireland) 2014”.
- (2) In Article 13(3) (publicity for meeting under Article 12)—

- (a) for “section 23 of the principal Act” substitute “section 42 of the Local Government Act (Northern Ireland) 2014”.
- (b) for “section 121” substitute “section 44”.

*Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 7)*

7. In section 17 (power to modify legislation), in subsection (2) in the definition of “local government legislation”, after paragraph (cc) insert—

“(cd) the Local Government Act (Northern Ireland) 2014;”.

*Planning Act (Northern Ireland) 2011 (c. 25)*

8. In section 79(4) (land belonging to councils and development by councils), for “47A of the Local Government Act (Northern Ireland) 1972” substitute “6 of the Local Government Act (Northern Ireland) 2014 so far as it relates to an officer of the council”.

SCHEDULE 10

Section 128(2).

REPEALS

| Short Title   | Extent of repeal  |
|---|---|
| <a href="#">The Local Government Act (Northern Ireland) 1972 (c. 9)</a> | <p>In section 4(1)(b)(i) and (ii), the words “or interim order”.</p> <p>Section 7A.</p> <p>Sections 11 to 27.</p> <p>Sections 34 and 35.</p> <p>Section 39.</p> <p>Section 42(2).</p> <p>Section 47A.</p> <p>In section 104(1), the words “any other council or”, and in both places where they occur the words “the other council or, as the case may be,”.</p> <p>Section 121.</p> <p>Sections 127 to 129.</p> <p>Schedule 2.</p> |

| Short Title  | Extent of repeal   |
|--|--|
|  | In Schedule 7, the entries relating to sections 23, 24, 25, 26, 27, 39, 47A, 48, 127 and 128.  |
| The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6) | Article 29(1).<br>Articles 31 to 33.<br>Article 36(3).   |
| The Local Government (Best Value) Act (Northern Ireland) 2002 (c.4)                  | The whole Act.   |
| The Local Government (Northern Ireland) Order 2005 (NI 18)                           | In Article 5(1), (2), (4), (5), (6) and (8), the word “chief”,<br>In Article 25(1), the word “chief”.<br>In Article 26, in paragraph (2) the words “Department or the chief” in the second place where they occur and in paragraph (3) the word “concerned”.<br>Article 28(2).   |
| The Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (c. 7)   | In section 2(6), the words “and audit reviews”.<br>In section 5, in subsection (1) paragraph (b) and the immediately preceding “or”, in subsection (2) paragraph (b) and the immediately preceding “or”, in subsection (3) the words “or an audit review”, and in the heading the words “and audit reviews”.<br>In section 6, in subsection (1) paragraph (b) and the immediately preceding “or” and in subsection (2)(c) the words “or an audit review”.<br>In section 7, in subsection (1)(a) the words “or an audit review” and in subsection (3) the words “or an audit review”.<br>In section 8, the definition of “an audit review”. |

| Short Title  | Extent of repeal   |
|--|--|
|  | In section 13(3), the words “of a statutory transition committee”.                       |
| <a href="#">The Local Government Finance Act (Northern Ireland) 2011 (c. 10)</a> | Sections 37 and 38.<br>In section 39, the words “Subject to section 40,”.<br>Section 40. |

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