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STATUTORY INSTRUMENTS

2002 No. 3149 (N.I. 3)

NORTHERN IRELAND

**The Local Government (Miscellaneous Provisions)
(Northern Ireland) Order 2002**

Made - - - - - 17th December 2002

*Coming into operation in accordance with Article 1(2)
and (3)*

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At the Court at Buckingham Palace, the 17th day of December 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows: –

Introductory

Title and commencement

1.—(1) This Order may be cited as the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002.

(2) Articles 8 and 9 and the repeal of Article 28 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6) come into operation on the expiration of two months from the day on which this Order is made.

(3) The other provisions of this Order come into operation on the expiration of one week from the day on which this Order is made, but nothing in those provisions –

- (a) applies in relation to any financial year which began before the date on which this Order is made; or
- (b) affects the operation of any statutory provision repealed by this Order in relation to any such financial year.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order –

“the Department” means the Department of the Environment; and

“regulations” means regulations made by the Department.

Grants to district councils

The general grant to district councils

3.—(1) The Department shall for each financial year make grants (“general grants”) to district councils.

(2) Subject to any reduction under Article 6, the general grant payable to a council for any financial year shall consist of –

- (a) a resources element, determined under Article 4; and
- (b) a de-rating element, determined under Article 5.

(3) Payments in respect of general grant shall be made to a council at such times as the Department may determine.

Determination of the resources element

4.—(1) The amount of the resources element of the general grant payable to a district council for any financial year shall be determined in accordance with regulations.

(2) Regulations under this Article may in particular make provision –

- (a) for the amount mentioned in that paragraph to be calculated by reference to a formula;
- (b) for determining the manner in which and time at which such calculation is to be made;
- (c) for determining the person by or to whom any information required for the purpose of that calculation is to be given and the time at which and form in which it is to be given.

(3) The formula may be such that the amount of the resources element payable to a council is nil.

(4) For the purposes of this Article “formula” includes methods, principles and rules of any description.

(5) Regulations under this Article may contain –

- (a) any supplementary, incidental or consequential provision,
- (b) any transitional or saving provision,
- (c) any provision for a person to exercise a discretion in dealing with any matter,

which the Department considers appropriate.

(6) Regulations shall not be made under this Article unless a draft of the regulations has been laid before, and approved by a resolution of the Assembly.

(7) Before making any regulations under this Article the Department shall consult –

- (a) such district councils; and
- (b) such other interested bodies or persons,

as the Department considers appropriate.

Determination of the derating element

5. The amount of the derating element of the general grant payable to a district council for any financial year is an 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 (NI 28)); and
- (b) the amount which, but for the provisions of Article 31B and 42 of, and paragraph 4 of Schedule 7, to that Order, would have been the amount of that product.

Reductions in general grant

6.—(1) Paragraph (2) applies where the Department is satisfied, from information contained in a relevant report relating to a district council, that as regards any financial year –

- (a) the council has failed to achieve or maintain a reasonable standard of economy, efficiency and effectiveness in the discharge of its functions, or
- (b) the expenditure of the council has been excessive having regard to the council’s financial resources and other circumstances relevant to the council.

(2) Where this paragraph applies, the Department shall prepare and lay before the Assembly –

- (a) a draft order providing that, in such financial year as is specified in the order (or in each of such financial years as are so specified), the amount of any general grant payable to the council shall be reduced by such amount as is so specified (or is so specified in relation to that year); and
- (b) a document setting out –
 - (i) the reasons for making any reduction specified in the order; and
 - (ii) such details of the relevant report as the Department thinks appropriate.

(3) If the draft order laid before the Assembly under paragraph (2)(a) is approved by resolution of the Assembly, the Department shall make the order in the same terms as the draft.

(4) If that draft order is not so approved, the Department may prepare and lay before the Assembly a new draft order and document complying with paragraph (2) and paragraph (3) and this paragraph apply in relation to that draft order as they apply in relation to the original draft order.

(5) In paragraphs (1) and (2) “relevant report” means a report made by a local government auditor under section 80, 88 or 89A of the Local Government Act (Northern Ireland) 1972 (c. 9).

(6) The Department may –

(a) defray any expenditure incurred in any financial year in the provision of services for a district council by a body specified in regulations; and

(b) deduct from the amount of any general grant payable to the council for that year such amount (not exceeding the total of the expenditure so defrayed) as the Department considers appropriate.

(7) Before exercising its powers under paragraph (6) the Department shall consult –

(a) such district councils, and

(b) such other interested bodies or persons,

as the Department considers appropriate

(8) Regulations under paragraph (6) shall be subject to negative resolution.

Other grants to councils

7.—(1) The Department may, in respect of a financial year, make grants to district councils for such other purposes as may be determined by the Department.

(2) A grant to a council under this Article shall be –

(a) of such amount, and

(b) made subject to such conditions,

as the Department may determine.

(3) Grants shall not be made under this Article without the consent of the Department of Finance and Personnel.

Powers of district councils

Powers of district councils in relation to economic development

8.—(1) A district council may promote the economic development of its district.

(2) Without prejudice to the generality of paragraph (1), a district council may for the purposes of the economic development of its district –

(a) make payments; and

(b) acquire, hold and develop land.

(3) The power to acquire land under paragraph (2)(b) includes power to acquire it otherwise than by agreement.

(4) In paragraph (2) “develop”, in relation to land includes –

(a) erect, alter or extend buildings thereon;

(b) carry out works thereon;

(c) provide means of access, services and other facilities for persons using the land;

(d) facilitate the doing of such things by another person;

(e) manage and dispose of the land.

(5) In exercising its powers under this Article a district council shall have regard to any guidance for the time being issued under paragraph (6).

(6) The Department of Enterprise, Trade and Investment may, after consultation with district councils and other interested bodies or persons, issue guidance as to the exercise by district councils of their powers under this Article.

Powers of district councils in relation to community safety

9.—(1) A district council may –

- (a) participate in any relevant community safety partnership;
- (b) take action in accordance with any plan prepared by, or proposals agreed by, such a partnership;
- (c) accept financial or other support provided by such a partnership; and
- (d) generally assist (whether financially or otherwise) and facilitate such a partnership in the exercise of its functions.

(2) The Department may by order confer or impose on district councils other functions relating to the enhancement of community safety in their districts.

(3) No order shall be made under this Article unless a draft of the order has been laid before and approved by a resolution of the Assembly.

(4) In this Article –

“community safety partnership” means a body established for an area in accordance with the community safety strategy devised by the Secretary of State under section 71 of the Justice (Northern Ireland) Act 2002 (c. 26) (but does not include any body established by an order under section 72(1) of that Act);

“the enhancement of community safety”, in relation to any district, means making the district one in which it is, and is perceived to be, safer to live and work, in particular by the reduction of actual and perceived levels of crime and other anti-social behaviour;

“relevant community safety partnership”, in relation to a district council, means such a partnership established for an area which is, or includes, the district of the council or any part of that district.

Repeals

Repeals

10. The statutory provisions specified in the Schedule are repealed to the extent specified in the second column of the Schedule.

A. K. Galloway
Clerk of the Privy Council

SCHEDULE

REPEALS

<i>Short Title</i>	<i>Extent of repeal</i>
The Local Government &c. (Northern Ireland) Order 1972 (NI 22)	Article 2(3), Articles 3 to 6, Schedule 1.
The Rates (Northern Ireland) Order 1977 (NI 28).	In Part II of Schedule 15, paragraphs 5 and 6.
The Enterprise Zones (Northern Ireland) Order 1981 (NI 15).	Article 18
The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15).	Article 41
The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6).	Article 28, Articles 48 and 49.
The Rates (Amendment) (Northern Ireland) Order 1994 (NI 11).	Article 4(4) Article 5(5)

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order makes new provision for the payment of general and other grants to district councils and confers new powers on district councils in relation to economic development and community safety.

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