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Localism Act 2011

2011 CHAPTER 20

PART 1

LOCAL GOVERNMENT

CHAPTER 1

GENERAL POWERS OF AUTHORITIES

VALID FROM 18/02/2012

1 Local authority's general power of competence

(1) A local authority 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 authority 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 authority to do something, it confers power (subject to sections 2 to 4) to do it in any way whatever, including—

(a) power to do it anywhere in the United Kingdom or elsewhere,

(b) power to do it for a commercial purpose or otherwise for a charge, or without charge, and

(c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.

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(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 authority 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 5(2)).

(7) Schedule 1 (consequential amendments) has effect.

VALID FROM 18/02/2012

2 Boundaries of the general power

(1) If exercise of a pre-commencement power of a local authority 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 local authority to do—
- (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
- (b) anything which the authority 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 authority's powers, or
  - (iii) to all of the authority'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 6 of the Local Government Act 1972 (arrangements for discharge of authority's functions by committees, joint committees, officers etc);
- (b) make or alter arrangements of a kind which are made, or may be made, by or under Part 1A of the Local Government Act 2000 (arrangements for local authority governance in England);
- (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 local authority.

(4) In this section—

"post-commencement limitation" means a prohibition, restriction or other limitation expressly imposed by a statutory provision that—
- (a) is contained in an Act passed after the end of the Session in which this Act is passed, or
- (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 1;

"pre-commencement limitation" means a prohibition, restriction or other limitation expressly imposed by a statutory provision that—
- (a) is contained in this Act, or in any other Act passed no later than the end of the Session in which this Act is passed, or

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(b) is contained in an instrument made under an Act and comes into force before the commencement of section 1;

"pre-commencement power" means power conferred by a statutory provision that—

(a) is contained in this Act, or in any other Act passed no later than the end of the Session in which this Act is passed, or

(b) is contained in an instrument made under an Act and comes into force before the commencement of section 1.

VALID FROM 18/02/2012

3 Limits on charging in exercise of general power

(1) Subsection (2) applies where—

(a) a local authority 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 authority to provide to the person,

(b) the person has agreed to its being provided, and

(c) ignoring this section and section 93 of the Local Government Act 2003, the authority does not 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.

VALID FROM 18/02/2012

4 Limits on doing things for commercial purpose in exercise of general power

(1) The general power confers power on a local authority to do things for a commercial purpose only if they are things which the authority may, in exercise of the general power, do otherwise than for a commercial purpose.

(2) Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company.

(3) A local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.

(4) In this section "company" means—

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(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

VALID FROM 18/02/2012

5 Powers to make supplemental provision

(1) If the Secretary of State thinks that a statutory provision (whenever passed or made) prevents or restricts local authorities from exercising the general power, the Secretary of State may by order amend, repeal, revoke or disapply that provision.

(2) If the Secretary of State thinks that the general power is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the Secretary of State may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made).

(3) The Secretary of State may by order make provision preventing local authorities from doing, in exercise of the general power, anything which is specified, or is of a description specified, in the order.

(4) The Secretary of State may by order provide for the exercise of the general power by local authorities to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.

(5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—

(a) all local authorities,

(b) particular local authorities, or

(c) particular descriptions of local authority.

(6) The power under subsection (1) or (2) to amend or disapply a statutory provision includes power to amend or disapply a statutory provision for a particular period.

(7) Before making an order under subsection (1), (2), (3) or (4) the Secretary of State must consult—

(a) such local authorities,

(b) such representatives of local government, and

(c) such other persons (if any),

as the Secretary of State considers appropriate.

(8) Before making an order under subsection (1) that has effect in relation to Wales, the Secretary of State must consult the Welsh Ministers.

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VALID FROM 18/02/2012

6 Limits on power under section 5(1)

(1) The Secretary of State may not make provision under section 5(1) unless the Secretary of State 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 5(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.

(5) An order under section 5(1) may not make provision to abolish or vary any tax.

VALID FROM 18/02/2012

7 Procedure for orders under section 5

(1) If, as a result of any consultation required by section 5(7) and (8) with respect to a proposed order under section 5(1), it appears to the Secretary of State that it is appropriate to change the whole or any part of the Secretary of State's proposals, the Secretary of State must undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.

(2) If, after the conclusion of the consultation required by section 5(7) and (8) and subsection (1), the Secretary of State considers it appropriate to proceed with the making of an order under section 5(1), the Secretary of State must lay before Parliament—
- (a) a draft of the order, and
- (b) an explanatory document explaining the proposals and giving details of—
  - (i) the Secretary of State's reasons for considering that the conditions in section 6(2), where relevant, are satisfied in relation to the proposals,
  - (ii) any consultation undertaken under section 5(7) and (8) and subsection (1),
  - (iii) any representations received as a result of the consultation, and
  - (iv) the changes (if any) made as a result of those representations.

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(3) Sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 (choosing between negative, affirmative and super-affirmative parliamentary procedure) are to apply in relation to an explanatory document and draft order laid under subsection (2) but as if—

(a) section 18(11) of that Act were omitted,

(b) references to section 14 of that Act were references to subsection (2), and

(c) references to the Minister were references to the Secretary of State.

(4) Provision under section 5(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5(2) and give details of any consultation undertaken under section 5(7) with respect to those proposals.

(5) Section 5(7) does not apply to an order under section 5(3) or (4) which is made only for the purpose of amending an earlier such order—

(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

8 Interpretation of Chapter

(1) In this Chapter—

"the general power" means the power conferred by section 1(1);

"local authority" means—

(a) a county council in England,

(b) a district council,

(c) a London borough council,

(d) the Common Council of the City of London in its capacity as a local authority,

(e) the Council of the Isles of Scilly, or

(f) an eligible parish council;

"statutory provision" means a provision of an Act or of an instrument made under an Act.

(2 A parish council is "eligible" for the purposes of this Chapter if the council meets the conditions prescribed by the Secretary of State by order for the purposes of this section.

Commencement Information

I1 S. 8(2) in force at 3.12.2011 by S.I. 2011/2896, **art. 2(a)**

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VALID FROM 18/02/2012

CHAPTER 2

FIRE AND RESCUE AUTHORITIES

9 General powers of certain fire and rescue authorities

(1) In Part 1 of the Fire and Rescue Services Act 2004 (fire and rescue authorities) after section 5 insert—

"5A Powers of certain fire and rescue authorities

(1) A relevant fire and rescue authority may do—
- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its "functional purposes"),
- (b) anything it considers appropriate for purposes incidental to its functional purposes,
- (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
- (d) anything it considers to be connected with—
  - (i) any of its functions, or
  - (ii) anything it may do under paragraph (a), (b) or (c), and
- (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.

(2) A relevant fire and rescue authority's power under subsection (1) is in addition to, and is not limited by, the other powers of the authority.

(3) In this section "relevant fire and rescue authority" means a fire and rescue authority that is—
- (a) a metropolitan county fire and rescue authority,
- (b) the London Fire and Emergency Planning Authority,
- (c) constituted by a scheme under section 2, or
- (d) constituted by a scheme to which section 4 applies.

5B Boundaries of power under section 5A

(1) Section 5A(1) does not enable a relevant fire and rescue authority to do—
- (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
- (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply—
  - (i) to its power under section 5A(1),
  - (ii) to all of the authority's powers, or
  - (iii) to all of the authority's powers but with exceptions that do not include its power under section 5A(1).

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(2) If exercise of a pre-commencement power of a relevant fire and rescue authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on the authority by section 5A(1) so far as it is overlapped by the pre-commencement power.

(3) Where under section 5A(1) a relevant fire and rescue authority does things for a commercial purpose, it must do them through—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

(4) Section 5A(1) does not authorise a relevant fire and rescue authority to do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.

(5) Section 5A(1) does not authorise a relevant fire and rescue authority to borrow money.

(6) Section 5A(1)(a) to (d) do not authorise a relevant fire and rescue authority to charge a person for any action taken by the authority (but see section 18A).

(7) Section 18B(1) to (8) apply in relation to charging for things done for a commercial purpose in exercise of power conferred by section 5A(1)(e) as they apply in relation to charging under section 18A(1).

(8) In this section—

"Act" (except in a reference to the Localism Act 2011) includes an Act, or Measure, of the National Assembly for Wales;

"passed" in relation to an Act, or Measure, of the National Assembly for Wales means enacted;

"post-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or

(b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 9(1) of that Act;

"pre-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or

(b) is contained in an instrument made under an Act and comes into force before the commencement of section 9(1) of that Act;

"pre-commencement power" means power conferred by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or

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(b) is contained in an instrument made under an Act and comes into force before the commencement of section 9(1) of that Act;

"relevant fire and rescue authority" has meaning given by section 5A(3);

"statutory provision" means a provision of an Act or of an instrument made under an Act.

5C Power to make provision supplemental to section 5A

(1) If the appropriate national authority thinks that a statutory provision (whenever passed or made) prevents or restricts relevant fire and rescue authorities from exercising power conferred by section 5A(1), the appropriate national authority may by order amend, repeal, revoke or disapply that provision.

(2) If the appropriate national authority thinks that the power conferred by section 5A(1) is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the appropriate national authority may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made).

(3) The appropriate national authority may by order make provision preventing relevant fire and rescue authorities from doing under section 5A(1) anything which is specified, or is of a description specified, in the order.

(4) The appropriate national authority may by order provide for the exercise by relevant fire and rescue authorities of power conferred by section 5A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.

(5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—

(a) all relevant fire and rescue authorities,

(b) particular relevant fire and rescue authorities, or

(c) particular descriptions of relevant fire and rescue authorities.

(6) Before making an order under subsection (1), (2), (3) or (4) the appropriate national authority proposing to make the order must consult—

(a) such relevant fire and rescue authorities,

(b) such representatives of relevant fire and rescue authorities, and

(c) such other persons (if any),

as that appropriate national authority considers appropriate.

(7) Subsection (6) does not apply to an order under subsection (3) or (4) which is made only for the purpose of amending an earlier such order—

(a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

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(8) The appropriate national authority's power under subsection (1) or (2) is exercisable by the Welsh Ministers so far as it is power to make provision that—

(a) would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly, and

(b) does not relate to a fire and rescue authority for an area in England.

(9) The appropriate national authority's power under subsection (1) or (2) is exercisable by the Secretary of State so far as it is not exercisable by the Welsh Ministers.

(10) The appropriate national authority's power under subsection (3) or (4) is exercisable—

(a) in relation to England by the Secretary of State, and

(b) in relation to Wales by the Welsh Ministers.

(11) In exercising power under subsection (1) or (2), the Secretary of State may make provision which has effect in relation to Wales only after having consulted the Welsh Ministers.

(12) The Welsh Ministers may submit to the Secretary of State proposals that power of the Secretary of State under subsection (1) or (2) in relation to Wales should be exercised in accordance with the proposals.

(13) In subsections (1) and (2) "statutory provision" means a provision of—

(a) an Act, or

(b) an instrument made under an Act,

and in this subsection "Act" includes an Act, or Measure, of the National Assembly for Wales.

(14) In this section "relevant fire and rescue authority" has the meaning given by section 5A(3).

5D Limits on power under section 5C(1)

(1) Provision may not be made under section 5C(1) unless the appropriate national authority making the provision 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.

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(3) An order under section 5C(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.

(5) An order under section 5C(1) may not make provision to abolish or vary any tax.

5E Procedure for Secretary of State's orders under section 5C(1) and (2)

(1) If, as a result of any consultation required by section 5C(6) and (11) with respect to a proposed order of the Secretary of State under section 5C(1), it appears to the Secretary of State that it is appropriate to change the whole or any part of the Secretary of State's proposals, the Secretary of State must undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.

(2) If, after the conclusion of the consultation required by section 5C(6) and (11) and subsection (1), the Secretary of State considers it appropriate to proceed with the making of an order under section 5C(1), the Secretary of State must lay before Parliament—
   (a) a draft of the order, and
   (b) an explanatory document explaining the proposals and giving details of—
      (i) the Secretary of State's reasons for considering that the conditions in section 5D(2), where relevant, are satisfied in relation to the proposals,
      (ii) any consultation undertaken under section 5C(6) and (11) and subsection (1),
      (iii) any representations received as a result of the consultation, and
      (iv) the changes (if any) made as a result of those representations.

(3) Sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 (choosing between negative, affirmative and super-affirmative parliamentary procedure) are to apply in relation to an explanatory document and draft order laid under subsection (2) but as if—
   (a) section 18(11) of that Act were omitted,
   (b) references to section 14 of that Act were references to subsection (2), and
   (c) references to the Minister were references to the Secretary of State.

(4) Provision proposed to be made by the Secretary of State under section 5C(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5C(2) and give details of any consultation undertaken under section 5C(6) and (11) with respect to those proposals.

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5F Procedure for Welsh Ministers' orders under section 5C(1) and (2)

(1) If, as a result of any consultation required by section 5C(6) with respect to a proposed order of the Welsh Ministers under section 5C(1), it appears to the Welsh Ministers that it is appropriate to change the whole or any part of their proposals, they must undertake such further consultation with respect to the changes as they consider appropriate.

(2) If, after the conclusion of the consultation required by section 5C(6) and subsection (1), the Welsh Ministers consider it appropriate to proceed with the making of an order under section 5C(1), they must lay before the National Assembly for Wales—

(a) a draft of the order, and

(b) an explanatory document explaining the proposals and giving details of—

(i) the Welsh Ministers' reasons for considering that the conditions in section 5D(2), where relevant, are satisfied in relation to the proposals,

(ii) any consultation undertaken under section 5C(6) and subsection (1),

(iii) any representations received as a result of the consultation, and

(iv) the changes (if any) made as a result of those representations.

(3) Provision proposed to be made by the Welsh Ministers under section 5C(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5C(2) and give details of any consultation undertaken under section 5C(6) with respect to those proposals.

5G Determining Assembly procedures for drafts laid under section 5F(2)

(1) The explanatory document laid with a draft order under section 5F(2) must contain a recommendation by the Welsh Ministers as to which of the following should apply in relation to the making of an order pursuant to the draft order—

(a) the negative resolution procedure (see section 5H),

(b) the affirmative resolution procedure (see section 5J), or

(c) the super-affirmative resolution procedure (see section 5K).

(2) The explanatory document must give reasons for the Welsh Ministers' recommendation.

(3) Where the Welsh Ministers' recommendation is that the negative resolution procedure should apply, that procedure applies unless, within the 30-day period—

(a) the National Assembly for Wales requires the application of the super-affirmative resolution procedure, in which case that procedure applies, or

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(b) in a case not within paragraph (a), the Assembly requires the application of the affirmative resolution procedure, in which case that procedure applies.

(4) Where the Welsh Ministers' recommendation is that the affirmative resolution procedure should apply, that procedure applies unless, within the 30-day period, the National Assembly for Wales requires the application of the super-affirmative resolution procedure, in which case the super-affirmative resolution procedure applies.

(5) Where the Welsh Ministers' recommendation is that the super-affirmative resolution procedure should apply, that procedure applies.

(6) For the purposes of this section, the National Assembly for Wales is to be taken to have required the application of a procedure within the 30-day period if—

(a) the Assembly resolves within that period that that procedure is to apply, or

(b) in a case not within paragraph (a), a committee of the Assembly charged with reporting on the draft order has recommended within that period that that procedure should apply and the Assembly has not by resolution rejected that recommendation within that period.

(7) In this section "the 30-day period" means the 30 days beginning with the day on which the draft order was laid before the National Assembly for Wales under section 5F(2).

5H Negative resolution procedure for draft laid under section 5F(2)

(1) For the purposes of this Part, "the negative resolution procedure" in relation to the making of an order pursuant to a draft order laid under section 5F(2) is as follows.

(2) The Welsh Ministers may make an order in the terms of the draft order subject to the following provisions of this section.

(3) The Welsh Ministers may not make an order in the terms of the draft order if the National Assembly for Wales so resolves within the 40-day period.

(4) A committee of the National Assembly for Wales charged with reporting on the draft order may, at any time after the expiry of the 30-day period and before the expiry of the 40-day period, recommend under this subsection that the Welsh Ministers not make an order in the terms of the draft order.

(5) Where a committee of the National Assembly for Wales makes a recommendation under subsection (4) in relation to a draft order, the Welsh Ministers may not make an order in the terms of the draft order unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.

(6) For the purposes of this section an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.

(7) In this section—

"the 30-day period" has the meaning given by section 5G(7), and

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"the 40-day period" means the 40 days beginning with the day on which the draft order was laid before the National Assembly for Wales under section 5F(2).

(8) For the purpose of calculating the 40-day period in a case where a recommendation is made under subsection (4) by a committee of the National Assembly for Wales but the recommendation is rejected by the Assembly under subsection (5), no account is to be taken of any day between the day on which the recommendation was made and the day on which the recommendation was rejected.

5J Affirmative resolution procedure for draft laid under section 5F(2)

(1) For the purposes of this Part, "the affirmative resolution procedure" in relation to the making of an order pursuant to a draft order laid under section 5F(2) is as follows.

(2) If after the expiry of the 40-day period the draft order is approved by a resolution of the National Assembly for Wales, the Welsh Ministers may make an order in the terms of the draft.

(3) However, a committee of the National Assembly for Wales charged with reporting on the draft order may, at any time after the expiry of the 30-day period and before the expiry of the 40-day period, recommend under this subsection that no further proceedings be taken in relation to the draft order.

(4) Where a committee of the National Assembly for Wales makes a recommendation under subsection (3) in relation to a draft order, no proceedings may be taken in relation to the draft order in the Assembly under subsection (2) unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.

(5) For the purposes of subsection (2) an order is made in the terms of a draft order if the order contains no material changes to the provisions of the draft order.

(6) In this section—

"the 30-day period" has the meaning given by section 5G(7), and

"the 40-day period" has the meaning given by section 5H(7).

(7) For the purpose of calculating the 40-day period in a case where a recommendation is made under subsection (3) by a committee of the National Assembly for Wales but the recommendation is rejected by the Assembly under subsection (4), no account is to be taken of any day between the day on which the recommendation was made and the day on which the recommendation was rejected.

5K Super-affirmative resolution procedure for draft laid under section 5F(2)

(1) For the purposes of this Part, "the super-affirmative resolution procedure" in relation to the making of an order pursuant to a draft order laid under section 5F(2) is as follows.

(2) The Welsh Ministers must have regard to—

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(a) any representations,
(b) any resolution of the National Assembly for Wales, and
(c) any recommendation of a committee of the Assembly charged with reporting on the draft order,

made during the 60-day period in relation to the draft order.

(3) If, after the expiry of the 60-day period, the Welsh Ministers want to make an order in the terms of the draft order, they must lay before the National Assembly for Wales a statement—
(a) stating whether any representations were made under subsection (2)(a), and
(b) if any representations were so made, giving details of them.

(4) The Welsh Ministers may after the laying of such a statement make an order in the terms of the draft order if it is approved by a resolution of the National Assembly for Wales.

(5) However, a committee of the National Assembly for Wales charged with reporting on the draft order may, at any time after the laying of a statement under subsection (3) and before the draft order is approved by the Assembly under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.

(6) Where a committee of the National Assembly for Wales makes a recommendation under subsection (5) in relation to a draft order, no proceedings may be taken in relation to the draft order in the Assembly under subsection (4) unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.

(7) If, after the expiry of the 60-day period, the Welsh Ministers wish to make an order consisting of a version of the draft order with material changes, they must lay before the National Assembly for Wales—
(a) a revised draft order, and
(b) a statement giving details of—
(i) any representations made under subsection (2)(a), and
(ii) the revisions proposed.

(8) The Welsh Ministers may after laying a revised draft order and statement under subsection (7) make an order in the terms of the revised draft order if it is approved by a resolution of the National Assembly for Wales.

(9) However, a committee of the National Assembly for Wales charged with reporting on the revised draft order may, at any time after the revised draft order is laid under subsection (7) and before it is approved by the Assembly under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.

(10) Where a committee of the National Assembly for Wales makes a recommendation under subsection (9) in relation to a revised draft order, no proceedings may be taken in relation to the revised draft order in the Assembly under subsection (8) unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.

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(11) For the purposes of subsections (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.

(12) In this section "the 60-day period" means the 60 days beginning with the day on which the draft order was laid before the National Assembly for Wales under section 5F(2).

5L Calculation of time periods

In calculating any period of days for the purposes of sections 5G to 5K, no account is to be taken of any time during which the National Assembly for Wales is dissolved or during which the Assembly is in recess for more than four days."

(2) Omit section 5 of the Fire and Rescue Services Act 2004 (power of combined fire and rescue authorities corresponding to the power under section 111 of the Local Government Act 1972).

(3) In section 60(1) of the Fire and Rescue Services Act 2004 (meaning of "subordinate legislation") for "by the Secretary of State under this Act" substitute " under this Act by the Secretary of State or the Welsh Ministers ".

(4) In section 60(4) of the Fire and Rescue Services Act 2004 (orders and regulations subject to affirmative procedure) for "subordinate legislation which amends or repeals any Act or provision of an Act may" substitute "—

(a) an order made by the Secretary of State under section 5C(3), other than one that is made only for the purpose mentioned in section 5C(7)(b),

(b) an order made by the Secretary of State under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose,

(c) an order made by the Secretary of State under section 5C(2) that—

(i) amends any Act or provision of an Act, and

(ii) is not made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5E(3), or

(d) subordinate legislation made by the Secretary of State, other than an order under section 5C, that amends or repeals any Act or provision of an Act,

may".

(5) In section 60(5) of the Fire and Rescue Services Act 2004 (orders and regulations subject to negative procedure) for "legislation, apart from an order under section 30 or 61, is" substitute "legislation made by the Secretary of State, apart from—

(1) (a) an order under section 5C(1),

(b) an order under section 5C(2) that is made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5E(3), or

(c) an order under section 30 or 61,

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is".

(6) In section 60 of the Fire and Rescue Services Act 2004 (orders and regulations) after subsection (5) insert—

"(6) A statutory instrument containing (alone or with other provisions)—

(a) an order made by the Welsh Ministers under section 5C(3), other than one that it is made only for the purpose mentioned in section 5C(7)(b),

(b) an order made by the Welsh Ministers under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose,

(c) an order made by the Welsh Ministers under section 5C(2) that—

(i) amends any Act or provision of an Act or amends any Act, or Measure, of the National Assembly for Wales or provision of such an Act or Measure, and

(ii) is not made in accordance with sections 5G to 5L, or

(d) subordinate legislation made by the Welsh Ministers, other than an order under section 5C, that amends any Act or provision of an Act,

may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

(7) A statutory instrument containing any other subordinate legislation made by the Welsh Ministers, apart from—

(a) an order under section 5C(1),

(b) an order under section 5C(2) that is made in accordance with sections 5G to 5L, or

(c) an order under section 30 or 61,

is subject to annulment in pursuance of a resolution of the National Assembly for Wales."

(7) In section 62 of the Fire and Rescue Services Act 2004 (application of Act in Wales)—

(a) in subsection (1)(b) (references to Secretary of State in sections 60 and 61) for "sections 60 and" substitute " section ",

(b) after subsection (1) insert—

"(1A) The reference in subsection (1)(a) to Parts 1 to 6 does not include—

(a) sections 5A and 5B,

(b) sections 5C and 5D,

(c) section 5E, and

(d) sections 5F to 5L.", and

(c) omit subsection (3) (disapplication of section 60(4) and (5)).

(8) In section 146A of the Local Government Act 1972 (application of provisions to certain joint and other authorities)—

(a) in subsection (1) after "Subject to subsections (1ZA), (1ZB)" insert " , (1ZC) ", and

(b) after subsection (1ZB) insert—

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"(1ZC) Neither a metropolitan county fire and rescue authority, nor the London Fire and Emergency Planning Authority, is to be treated as a local authority for the purposes of section 111 above (but see section 5A of the Fire and Rescue Services Act 2004)."

10 Fire and rescue authorities: charging

(1) The Fire and Rescue Services Act 2004 is amended as follows.

(2) After section 18 insert—

"**18A Charging by authorities**

(1) A fire and rescue authority may charge a person for any action taken by the authority—
   (a) in the United Kingdom or at sea or under the sea, and
   (b) otherwise than for a commercial purpose,

   but this is subject to the provisions of this section and section 18B.

(2) Subsection (1) authorises a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the authority.

(3) Before a fire and rescue authority begins to charge under subsection (1) or section 5A(1)(e) for taking action of a particular description, the authority must consult any persons the authority considers appropriate.

(4) If a fire and rescue authority decides to charge under subsection (1) for taking action of a particular description—
   (a) the amount of the charge is to be set by the authority;
   (b) the authority may charge different amounts in different circumstances (and may charge nothing).

(5) In setting the amount of a charge under subsection (1), a fire and rescue authority must secure that, taking one financial year with another, the authority's income from charges does not exceed the cost to the authority of taking the action for which the charges are imposed.

(6) The duty under subsection (5) applies separately in relation to each kind of action.

(7) The references in subsection (1) and section 18B(1) to "sea" are not restricted to the territorial sea of the United Kingdom.

(8) In subsection (5) "financial year" means 12 months ending with 31 March.

18B Limits on charging under section 18A(1)

(1) Section 18A(1) authorises charging for extinguishing fires, or protecting life and property in the event of fires, only in respect of fires which are at sea or under the sea.

(2) Section 18A(1) does not authorise charging for emergency medical assistance.

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(3) Section 18A(1) authorises charging for action taken in response to a report of a fire or explosion only if section 18C applies to the report.

(4) Section 18A(1) does not authorise charging for rescuing individuals, or protecting individuals from serious harm, in the event of an emergency.

(5) Section 18A(1) does not authorise charging for action taken in response to—
- (a) emergencies resulting from events of widespread significance,
- (b) emergencies which have occurred as a direct result of severe weather, or
- (c) emergencies resulting from road traffic accidents.

(6) Subject to subsection (7), section 18A(1) does not authorise charging for action taken under section 6.

(7) Subsection (6) does not prevent charging for the giving of advice, other than advice of the kind mentioned in section 6(2)(b), in relation to premises where a trade, business or other undertaking is carried on (whether for profit or not).

(8) Section 18A(1) does not authorise charging for action taken by a fire and rescue authority in its capacity as an enforcing authority for the purposes of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541).

(9) Nothing in subsections (1) to (8)—
- (a) applies to charges for providing under section 12 the services of any persons or any equipment,
- (b) affects the operation of section 13(3) or 16(3), or
- (c) affects any provision for payments to a fire and rescue authority contained in arrangements for co-operation made between that authority and—
  - (i) a public authority that is not a fire and rescue authority, or
  - (ii) any person, other than a public authority, who exercises public functions.

(10) The Secretary of State in relation to fire and rescue authorities in England, and the Welsh Ministers in relation to fire and rescue authorities in Wales, may by order disapply subsection 18A(1) in relation to actions of a particular kind.

(11) The power under subsection (10) includes power to disapply for a particular period.

18C Cases where a charge may be made for responding to report of fire etc

(1) This section applies for the purposes of section 18B(3).

(2) This section applies to a report of fire, or explosion, at sea or under the sea.

(3) This section applies to a report of fire if—
- (a) the report is of fire at premises that are not domestic premises,
- (b) the report is false,

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(c) the report is made as a direct or indirect result of warning equipment having malfunctioned or been misinstalled, and

(d) there is a persistent problem with false reports of fire at the premises that are made as a direct or indirect result of warning equipment under common control having malfunctioned or been misinstalled.

(4) The references in subsection (2) to "sea" are not restricted to the territorial sea of the United Kingdom.

(5) In subsection (3)—

"domestic premises" means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);

"warning equipment" means equipment installed for the purpose of—

(a) detecting fire, or

(b) raising the alarm, or enabling the alarm to be raised, in the event of fire."

(3) Omit section 19 (charging).

(4) In section 62 (application of Act in Wales) before subsection (2) insert—

"(1B) The reference in subsection (1)(a) to Parts 1 to 6 does not include sections 18A to 18C."

(5) Where immediately before the coming into force of subsections (1) to (3) in relation to England or Wales an order under section 19(1) of the Fire and Rescue Services Act 2004 authorises a fire and rescue authority in England or (as the case may be) Wales to charge for action of a specified description taken by the authority, section 18A(3) of that Act does not apply in relation to action of that description.

VALID FROM 18/02/2012

CHAPTER 3

OTHER AUTHORITIES

11 Integrated Transport Authorities

In Part 5 of the Local Transport Act 2008 (integrated transport authorities etc) after section 102A insert—

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"CHAPTER 4

GENERAL POWERS

102B Powers of Integrated Transport Authorities

(1) An ITA may do—

(a) anything the ITA considers appropriate for the purposes of the carrying-out of any of the ITA's functions (the ITA's "functional purposes"),

(b) anything the ITA considers appropriate for purposes incidental to the ITA's functional purposes,

(c) anything the ITA considers appropriate for purposes indirectly incidental to the ITA's functional purposes through any number of removes,

(d) anything the ITA considers to be connected with—

(i) any of the ITA's functions, or

(ii) anything the ITA may do under paragraph (a), (b) or (c), and

(e) for a commercial purpose anything which the ITA may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.

(2) Where subsection (1) confers power on an ITA to do something, it confers power (subject to section 102C) to do it anywhere in the United Kingdom or elsewhere.

(3) An ITA's power under subsection (1) is in addition to, and is not limited by, the other powers of the ITA.

(4) Subsection (5) applies if there is, in relation to an ITA—

(a) a Passenger Transport Executive established under section 9 of the TA 1968 for the integrated transport area of the ITA, or

(b) an executive body established by virtue of section 79(1)(a) or 84(2)(d).

(5) The ITA may delegate to the Executive or body the ITA's function of taking action under subsection (1) (but not the function of determining what action to take).

102C Boundaries of power under section 102B

(1) Section 102B(1) does not enable an ITA to do—

(a) anything which the ITA is unable to do by virtue of a pre-commencement limitation, or

(b) anything which the ITA is unable to do by virtue of a post-commencement limitation which is expressed to apply—

(i) to the ITA's power under section 102B(1),

(ii) to all of the ITA's powers, or

(iii) to all of the ITA's powers but with exceptions that do not include the ITA's power under section 102B(1).

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(2) If exercise of a pre-commencement power of an ITA is subject to restrictions, those restrictions apply also to exercise of the power conferred on the ITA by section 102B(1) so far as it is overlapped by the pre-commencement power.

(3) Section 102B(1) does not authorise an ITA to borrow money.

(4) Section 102B(1)(a) to (d) do not authorise an ITA to charge a person for anything done by the ITA otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of ITAs and other best value authorities to charge for discretionary services)).

(5) Section 102B(1)(e) does not authorise an ITA to do things for a commercial purpose in relation to a person if a statutory provision requires the ITA to do those things in relation to the person.

(6) Where under section 102B(1)(e) an ITA does things for a commercial purpose, it must do them through—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

(7) In this section—

"post-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or

(b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 11 of that Act;

"pre-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or

(b) is contained in an instrument made under an Act and comes into force before the commencement of section 11 of that Act;

"pre-commencement power" means power conferred by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or

(b) is contained in an instrument made under an Act and comes into force before the commencement of section 11 of that Act;

"statutory provision" means a provision of an Act or of an instrument made under an Act.

102D Power to make provision supplemental to section 102B

(1) The Secretary of State may by order made by statutory instrument make provision preventing ITAs from doing under section 102B(1) anything which is specified, or is of a description specified, in the order.

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(2) The Secretary of State may by order made by statutory instrument provide for the exercise by ITAs of power conferred by section 102B(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.

(3) The power under subsection (1) or (2) may be exercised in relation to—
- (a) all ITAs,
- (b) particular ITAs, or
- (c) particular descriptions of ITAs.

(4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
- (a) such representatives of ITAs,
- (b) such representatives of local government, and
- (c) such other persons (if any),

as the Secretary of State considers appropriate.

(5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular ITA or to ITAs of a particular description, or
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular ITA or to ITAs of a particular description.

(6) Power to make an order under this section includes—
- (a) power to make different provision for different cases, circumstances or areas, and
- (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.

(7) The Secretary of State may not make an order to which subsection (8) applies unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.

(8) This subsection applies to—
- (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
- (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.

(9) A statutory instrument that—
- (a) contains an order made under this section, and
- (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,

is subject to annulment in pursuance of a resolution of either House of Parliament."

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12 Passenger Transport Executives

(1) In Part 2 of the Transport Act 1968 (integrated transport authorities etc) after section 10 insert—

"**10A Further powers of Executives**

(1) The Executive of an integrated transport area in England may do—
- (a) anything the Executive considers appropriate for the purposes of the carrying-out of any of the Executive's functions (the Executive's "functional purposes"),
- (b) anything the Executive considers appropriate for purposes incidental to the Executive's functional purposes,
- (c) anything the Executive considers appropriate for purposes indirectly incidental to the Executive's functional purposes through any number of removes,
- (d) anything the Executive considers to be connected with—
  - (i) any of the Executive's functions, or
  - (ii) anything the Executive may do under paragraph (a), (b) or (c), and
- (e) for a commercial purpose anything which the Executive may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.

(2) Where subsection (1) confers power on the Executive to do something, it confers power (subject to section 10B) to do it anywhere in the United Kingdom or elsewhere.

(3) The Executive's power under subsection (1) is in addition to, and is not limited by, the other powers of the Executive.

10B Boundaries of power under section 10A

(1) Section 10A(1) does not enable the Executive to do—
- (a) anything which the Executive is unable to do by virtue of a pre-commencement limitation, or
- (b) anything which the Executive is unable to do by virtue of a post-commencement limitation which is expressed to apply—
  - (i) to the Executive's power under section 10A(1),
  - (ii) to all of the Executive's powers, or
  - (iii) to all of the Executive's powers but with exceptions that do not include the Executive's power under section 10A(1).

(2) If exercise of a pre-commencement power of the Executive is subject to restrictions, those restrictions apply also to exercise of the power conferred on the Executive by section 10A(1) so far as it is overlapped by the pre-commencement power.

(3) Section 10A(1) does not authorise the Executive to borrow money.

(4) Section 10A(1)(a) to (d) do not authorise the Executive to charge a person for anything done by the Executive otherwise than for a commercial purpose,

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but this does not limit any power to charge that the Executive has otherwise than under section 10A(1)(a) to (d).

(5) Section 10A(1)(e) does not authorise the Executive to do things for a commercial purpose in relation to a person if a statutory provision requires the Executive to do those things in relation to the person.

(6) Where under section 10A(1)(e) the Executive does things for a commercial purpose, it must do them through—
  (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

(7) In this section—

"post-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—
  (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
  (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 12(1) of that Act;

"pre-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—
  (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(1) of that Act;

"pre-commencement power" means power conferred by a statutory provision that—
  (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
  (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(1) of that Act;

"statutory provision" means a provision of an Act or of an instrument made under an Act.

10C Power to make provision supplemental to section 10A

(1) The Secretary of State may by order make provision preventing the Executive from doing under section 10A(1) anything which is specified, or is of a description specified, in the order.

(2) The Secretary of State may by order provide for the exercise by the Executive of power conferred by section 10A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.

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(3) The power under subsection (1) or (2) may be exercised in relation to—
- (a) all Executives,
- (b) particular Executives, or
- (c) particular descriptions of Executives.

(4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
- (a) such representatives of Executives,
- (b) such representatives of local government, and
- (c) such other persons (if any),

as the Secretary of State considers appropriate.

(5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular Executive or to Executives of a particular description, or
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular Executive or to Executives of a particular description.

(6) Power to make an order under this section includes—
- (a) power to make different provision for different cases, circumstances or areas, and
- (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.

(7) A statutory instrument containing an order to which subsection (8) applies (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(8) This subsection applies to—
- (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
- (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.

(9) A statutory instrument that—
- (a) contains an order made under this section, and
- (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,

is subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 10(1) of the Transport Act 1968 (powers of a Passenger Transport Executive)—
- (a) in paragraph (xxvii) (power to invest sums not immediately needed) for "any sums which are not immediately required by them for the purposes of their business" substitute " their money ", and

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(b) in paragraph (xxviii) (power to turn unneeded resources to account) omit "so far as not required for the purposes of their business".

(3) In section 22 of the Transport Act 1968 (orders under Part 2 of that Act to be subject to annulment) after subsection (2) insert—

"(2A) Subsections (1) and (2) of this section do not apply in relation to orders under section 10C of this Act (but see subsections (7) to (9) of that section)."

(4) In section 93(9) of the Local Government Act 2003 (authorities with power under section 93 to charge for discretionary services) before paragraph (b) insert—

"(ab) the Passenger Transport Executive of an integrated transport area in England;".

(5) In section 95(7) of the Local Government Act 2003 (power to authorise certain authorities to do for commercial purposes things that they can do for non-commercial purposes) in the definition of "relevant authority" before paragraph (b) insert—

"(ab) the Passenger Transport Executive of an integrated transport area in England;".

13 Economic prosperity boards and combined authorities

(1) In Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities) after section 113 insert—

"General powers of EPBs and combined authorities

113A General power of EPB or combined authority

(1) An EPB or combined authority may do—

(a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its "functional purposes"),

(b) anything it considers appropriate for purposes incidental to its functional purposes,

(c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,

(d) anything it considers to be connected with—

(i) any of its functions, or

(ii) anything it may do under paragraph (a), (b) or (c), and

(e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.

(2) Where subsection (1) confers power on an EPB or combined authority to do something, it confers power (subject to section 113B) to do it anywhere in the United Kingdom or elsewhere.

(3) Power conferred on an EPB or combined authority by subsection (1) is in addition to, and is not limited by, its other powers.

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113B Boundaries of power under section 113A

(1) Section 113A(1) does not enable an EPB or combined authority to do—
- (a) anything which it is unable to do by virtue of a pre-commencement limitation, or
- (b) anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—
  - (i) to its power under section 113A(1),
  - (ii) to all of its powers, or
  - (iii) to all of its powers but with exceptions that do not include its power under section 113A(1).

(2) If exercise of a pre-commencement power of an EPB or combined authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on it by section 113A(1) so far as that power is overlapped by the pre-commencement power.

(3) Section 113A(1) does not authorise an EPB or combined authority to borrow money.

(4) Section 113A(1)(a) to (d) do not authorise an EPB or combined authority to charge a person for anything done by it otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of EPBs, combined authorities and other best value authorities to charge for discretionary services)).

(5) Section 113A(1)(e) does not authorise an EPB or combined authority to do things for a commercial purpose in relation to a person if a statutory provision requires it to do those things in relation to the person.

(6) Where under section 113A(1)(e) an EPB or combined authority does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
- (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

(7) In this section—

"post-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
- (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 13(1) of that Act;

"pre-commencement limitation" means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or

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(b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;

"pre-commencement power" means power conferred by a statutory provision that—

(a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or

(b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;

"statutory provision" means a provision of an Act or of an instrument made under an Act.

113C Power to make provision supplemental to section 113A

(1) The Secretary of State may by order make provision preventing EPBs or combined authorities from doing under section 113A(1) anything which is specified, or is of a description specified, in the order.

(2) The Secretary of State may by order provide for the exercise by EPBs or combined authorities of power conferred by section 113A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.

(3) The power under subsection (1) or (2) may be exercised in relation to—

(a) all EPBs,

(b) all combined authorities,

(c) particular EPBs,

(d) particular combined authorities,

(e) particular descriptions of EPBs, or

(f) particular descriptions of combined authorities.

(4) Before making an order under subsection (1) or (2) the Secretary of State must consult—

(a) such representatives of EPBs or combined authorities,

(b) such representatives of local government, and

(c) such other persons (if any),

as the Secretary of State considers appropriate.

(5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—

(a) so as to extend the earlier order, or any provision of the earlier order, to a particular EPB or combined authority or to EPBs or combined authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular EPB or combined authority or to EPBs or combined authorities of a particular description.

(6) Power to make an order under this section includes—

(a) power to make different provision for different cases, circumstances or areas, and

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(b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings."

(2) For section 117(2) and (3) of the Local Democracy, Economic Development and Construction Act 2009 (affirmative procedure applies to orders under Part 6 other than certain orders under section 116) substitute—

"(2) An order to which subsection (2A) applies may not be made unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.

(2A) This subsection applies to an order under this Part other than—

(a) an order under section 113C(1) that is made only for the purpose mentioned in section 113C(5)(b),

(b) an order under section 113C(2) that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose, or

(c) an order under section 116 that amends or revokes provision contained in an instrument subject to annulment by resolution of either House of Parliament.

(3) A statutory instrument that—

(a) contains an order under this Part, and

(b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,

is subject to annulment by resolution of either House of Parliament."

14 Further amendments

(1) In section 146A of the Local Government Act 1972 (application of provisions to certain joint and other authorities)—

(a) in subsection (1) for "or (1A)" substitute " , (1ZD) or (1ZE) ", and

(b) after subsection (1ZC) (which is inserted by section 9 of this Act) insert—

"(1ZD) An Integrated Transport Authority is not to be treated as a local authority for the purposes of section 111 above (but see section 102B of the Local Transport Act 2008).

(1ZE) Neither an economic prosperity board, nor a combined authority, is to be treated as a local authority for the purposes of section 111 above (but see section 113A of the Local Democracy, Economic Development and Construction Act 2009)."

(2) In section 93(7) of the Local Government Act 2003 (provisions that do not count as prohibitions on charging for the purposes of section 93(2)(b)) after paragraph (c) insert—

"(d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities and combined authorities),

(e) section 102C(4) of that Act (Integrated Transport Authorities),

(f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), and

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(g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities)."

CHAPTER 4

TRANSFER AND DELEGATION OF FUNCTIONS TO CERTAIN AUTHORITIES

15 Power to transfer local public functions to permitted authorities

(1) The Secretary of State may by order make provision—
- (a) transferring a local public function from the public authority whose function it is to a permitted authority;
- (b) about the discharge of local public functions that are transferred to permitted authorities under this section (including provision enabling the discharge of those functions to be delegated).

(2) An order under this section may modify any enactment (whenever passed or made) for the purpose of making the provision mentioned in subsection (1).

(3) The power to modify an enactment in subsection (2) is a power—
- (a) to apply that enactment with or without modifications,
- (b) to extend, disapply or amend that enactment, or
- (c) to repeal or revoke that enactment with or without savings.

(4) An order under this section may disapply, or modify the application of, Chapter 4 of Part 1A of the Local Government Act 2000 (changing local authority governance arrangements) in relation to a county council or district council to which the order transfers a local public function.

(5) The Secretary of State may not make an order under this section unless the Secretary of State considers that it is likely that making the order would—
- (a) promote economic development or wealth creation, or
- (b) increase local accountability in relation to each local public function transferred by the order.

(6) For the purposes of subsection (5)(b), in relation to a local public function, local accountability is increased if the exercise of the function becomes more accountable to persons living or working in the area of the permitted authority to which it is transferred.

(7) The Secretary of State may not make an order under this section unless the Secretary of State considers that the local public function transferred by the order can appropriately be exercised by the permitted authority to which it is transferred.

(8) The Secretary of State may not make an order under this section transferring a local public function to a permitted authority unless the authority has consented to the transfer.

(9) Before making an order under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

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Commencement Information

I2 S. 15 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(b)**

16 Delegation of functions by Ministers to permitted authorities

(1) A Minister of the Crown may, to such extent and subject to such conditions as that Minister thinks fit, delegate to a permitted authority any of the Minister's eligible functions.

(2) A function is eligible for the purposes of subsection (1) if—

(a) it does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and

(b) the Minister of the Crown considers that it can appropriately be exercised by the permitted authority.

(3) No delegation under subsection (1), and no variation of a delegation under that subsection, may be made without the agreement of the permitted authority.

(4) Before delegating a function under subsection (1), the Minister of the Crown must consult such persons as the Minister considers appropriate.

(5) A delegation under subsection (1) may be revoked at any time by any Minister of the Crown.

Commencement Information

I3 S. 16 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(a)** (with arts. 6, 7, arts. 9-11)

17 Transfer schemes

(1) The Secretary of State may make a scheme for the transfer of property, rights or liabilities from the person who, or body which, would have a local public function but for an order under section 15 to the permitted authority to which the function is transferred.

(2) A Minister of the Crown may make a scheme for the transfer from the Crown to a permitted authority of such property, rights or liabilities as the Minister of the Crown considers appropriate in consequence of a delegation, or the variation of a delegation, under section 16 of a function of any Minister of the Crown to the permitted authority.

(3) A Minister of the Crown may make a scheme for the transfer from a permitted authority to the Crown of such property, rights or liabilities as the Minister of the Crown considers appropriate in consequence of a variation or revocation of a delegation under section 16 of a function of any Minister of the Crown to the permitted authority.

(4) The things that may be transferred under a transfer scheme include—

(a) property, rights or liabilities that could not otherwise be transferred;

(b) property acquired, or rights or liabilities arising, after the making of the order.

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(5) A transfer scheme may make consequential, supplementary, incidental and transitional provision and may in particular make provision—

(a) for a certificate issued by a Minister of the Crown to be conclusive evidence that property has been transferred;

(b) creating rights, or imposing liabilities, in relation to property or rights transferred;

(c) about the continuing effect of things done by or in relation to the transferor in respect of anything transferred;

(d) about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;

(e) for references to the transferor in an instrument or other document relating to anything transferred to be treated as references to the transferee;

(f) for the shared ownership or use of property;

(g) that has the same or similar effect as the TUPE regulations (so far as those regulations do not apply in relation to the transfer).

(6) A transfer scheme may provide—

(a) for modification by agreement;

(b) for modifications to have effect from the date when the original scheme came into effect.

(7) For the purposes of this section—

(a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and

(b) the terms of the individual's employment in the civil service are to be regarded as constituting the terms of the contract of employment.

(8) In this section—

"civil service" means the civil service of the State;

"transferee", in relation to a transfer scheme, means the person to whom property, rights or liabilities are transferred by the scheme;

"transferor", in relation to a transfer scheme, means the person from whom property, rights or liabilities are transferred by the scheme;

"transfer scheme" means a scheme for the transfer of property, rights or liabilities under subsection (1), (2) or (3);

"TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246);

references to rights and liabilities include rights and liabilities relating to a contract of employment;

references to the transfer of property include the grant of a lease.

Commencement Information

I4 S. 17 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(a)** (with arts. 6, 7, arts. 9-11)

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18 Duty to consider proposals for exercise of powers under sections 15 and 17

(1) If the Secretary of State receives a relevant proposal from a permitted authority, the Secretary of State must—
  (a) consider the proposal, and
  (b) notify the permitted authority of what action, if any, the Secretary of State will take in relation to the proposal.

(2) The Secretary of State may by regulations specify criteria to which the Secretary of State must have regard in considering a relevant proposal.

(3) For the purposes of this section, a "relevant proposal" is a proposal—
  (a) for the exercise of the Secretary of State's powers in sections 15 and 17 in relation to the permitted authority, and
  (b) that is accompanied by such information and evidence as the Secretary of State may specify by regulations.

(4) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

Commencement Information
I5 S. 18 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(a)** (with arts. 6, 7, arts. 9-11)

19 Orders under section 15: procedure

(1) Before making an order under section 15, the Secretary of State must lay a draft of the instrument containing the order (the "draft order") before each House of Parliament.

(2) The Secretary of State must have regard to—
  (a) any representations,
  (b) any resolution of either House of Parliament, and
  (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft order,

  made during the 60-day period with regard to the draft order.

(3) If, after the expiry of the 60-day period, the Secretary of State wishes to make an order in the terms of the draft order, the Secretary of State must lay before Parliament a statement—
  (a) stating whether any representations were made under subsection (2)(a), and
  (b) if any representations were so made, giving details of them.

(4) The Secretary of State may after the laying of such a statement make an order in the terms of the draft order if it is approved by a resolution of each House of Parliament.

(5) However, a committee of either House charged with reporting on the draft order may, at any time after the laying of the statement under subsection (3) and before the draft order is approved by that House under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.

(6) Where a recommendation is made by a committee of either House under subsection (5) in relation to a draft order, no proceedings may be taken in relation to the draft order

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in that House under subsection (4) unless the recommendation is, in the same Session, rejected by a resolution of that House.

(7) If, after the expiry of the 60-day period, the Secretary of State wishes to make an order consisting of a version of the draft order with material changes, the Secretary of State must lay before Parliament—

(a) a revised draft order, and

(b) a statement giving details of—

(i) any representations made under subsection (2)(a), and

(ii) the revisions proposed.

(8) The Secretary of State may after laying a revised draft order and statement under subsection (7) make an order in the terms of the revised draft order if it is approved by a resolution of each House of Parliament.

(9) However, a committee of either House charged with reporting on the revised draft order may, at any time after the revised draft order is laid under subsection (7) and before it is approved by that House under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.

(10) Where a recommendation is made by a committee of either House under subsection (9) in relation to a revised draft order, no proceedings may be taken in relation to the revised draft order in that House under subsection (8) unless the recommendation is, in the same Session, rejected by resolution of that House.

(11) For the purposes of subsections (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.

(12) If a draft of an instrument containing an order under section 15 would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

(13) In this section, the "60-day period" means the period of 60 days beginning with the day on which the draft order was laid before Parliament.

(14) In calculating the period mentioned in subsection (13), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.

Commencement Information

I6 S. 19 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(c)**

20 Interpretation of Chapter

In this Chapter—

"enactment" includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"local public function", in relation to a permitted authority, means a public function in so far as it relates to—

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(a) the permitted authority's area, or
(b) persons living, working or carrying on activities in that area;

"permitted authority" means—
(a) a county council in England,
(b) a district council,
(c) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, or
(d) a combined authority established under section 103 of that Act;

"public authority" includes a Minister of the Crown or a government department;

"public function" means a function of a public authority that does not consist of a power to make regulations or other instruments of a legislative character.

Commencement Information

I7 S. 20 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(d)**

I8 S. 20 in force at 15.1.2012 in so far as not already in force by S.I. 2012/57, **art. 4(1)(a)** (with arts. 6, 7, arts. 9-11)

CHAPTER 5

GOVERNANCE

21 New arrangements with respect to governance of English local authorities

Schedule 2 (new Part 1A of, including Schedule A1 to, the Local Government Act 2000) has effect.

Commencement Information

I9 S. 21 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(e)**

I10 S. 21 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(b)** (with arts. 6, 7, arts. 9-11)

22 New local authority governance arrangements: amendments

Schedule 3 (minor and consequential amendments relating to local authority governance in England) has effect.

Commencement Information

I11 S. 22 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(h)**

I12 S. 22 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(c)** (with arts. 6, 7, arts. 9-11)

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23 Changes to local authority governance in England: transitional provision etc

(1) The Secretary of State may by order make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of sections 21 and 22 and Schedules 2 and 3.

(2) An order under subsection (1) may, in particular, include any provision—

(a) relating to local authorities—

(i) ceasing to operate executive arrangements or alternative arrangements under Part 2 of the Local Government Act 2000, and

(ii) starting to operate executive arrangements or a committee system under Part 1A of that Act,

(b) as to whether, and how, anything done, or in the process of being done, under any provision of Part 2 of that Act is to be deemed to have been done, or be in the process of being done, under any provision of Part 1A of that Act (whether generally or for specified purposes), or

(c) modifying the application of any provision of Chapter 4 of Part 1A of that Act in relation to a change in governance arrangements by a local authority within a specified period.

(3) The reference in subsection (2)(b) to things done includes a reference to things omitted to be done.

(4) In this section—

"change in governance arrangements" has the meaning given by section 9OA of the Local Government Act 2000;

"local authority" means a county council in England, a district council or a London borough council;

"specified" means specified in an order under this section.

24 Timetables for changing English district councils' electoral schemes

(1) The Local Government and Public Involvement in Health Act 2007 is amended as follows.

(2) Omit the following provisions (which provide that councils may pass resolutions to change their electoral schemes only in certain permitted periods)—

(a) section 33(4), (6) and (7) (district councils changing to whole-council elections),

(b) section 38(4), (6) and (7) (non-metropolitan district councils reverting to elections by halves), and

(c) section 40(4), (6) and (7) (district councils reverting to elections by thirds).

(3) In section 33 (resolution for whole-council elections: requirements) after subsection (3) insert—

"(3A) The resolution must specify the year for the first ordinary elections of the council at which all councillors are to be elected.

(3B) In the case of a district council for a district in a county for which there is a county council, the year specified under subsection (3A) may not be a county-council-elections year; and here "county-council-elections year" means 2013 and every fourth year afterwards."

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(4) In section 34(2) (years in which whole-council elections to a district council are to be held if scheme under section 34 applies) for paragraphs (a) and (b) substitute—

"(a) the year specified under section 33(3A) in the resolution, and

(b) every fourth year afterwards."

(5) In section 34 (scheme for whole-council elections) after subsection (4) insert—

"(4A) Ordinary elections of councillors of the council under the previous electoral scheme are to be held in accordance with that scheme in any year that—

(a) is earlier than the year specified under section 33(3A) in the resolution for whole-council elections, and

(b) is a year in which, under the previous electoral scheme, ordinary elections of councillors of the council are due to be held.

(4B) In subsection (4A) "the previous electoral scheme" means the scheme for the ordinary elections of councillors of the council that applied to it immediately before it passed the resolution for whole-council elections."

(6) After section 31 insert—

"**31A Minimum period between resolutions to change electoral schemes**

If a council passes a resolution under section 32, 37 or 39 ("the earlier resolution") it may not pass another resolution under any of those sections before the end of five years beginning with the day on which the earlier resolution is passed."

(7) In section 57 of the Local Democracy, Economic Development and Construction Act 2009 (requests for review of single-member electoral areas by councils subject to a scheme for whole-council elections) after subsection (4) (meaning of "subject to a scheme for whole-council elections") insert—

"(4A) A district council is also "subject to a scheme for whole-council elections" for those purposes if—

(a) section 34 of the Local Government and Public Involvement in Health Act 2007 (scheme for whole-council elections) applies to the council, but

(b) by virtue of subsection (4A) of that section (temporary continuation of previous electoral scheme), not all the members of the council are to be elected in a year in which ordinary elections of members of the council are to be held."

Commencement Information

I13 S. 24 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(d)** (with arts. 6, 7, arts. 9-11)

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CHAPTER 6

PREDETERMINATION

25 Prior indications of view of a matter not to amount to predetermination etc

(1) Subsection (2) applies if—

(a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and

(b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision.

(2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—

(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and

(b) the matter was relevant to the decision.

(3) Subsection (2) applies in relation to a decision-maker only if that decision-maker—

(a) is a member (whether elected or not) of the relevant authority, or

(b) is a co-opted member of that authority.

(4) In this section—

"co-opted member", in relation to a relevant authority, means a person who is not a member of the authority but who—

(a) is a member of any committee or sub-committee of the authority, or

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of the committee or sub-committee;

"decision", in relation to a relevant authority, means a decision made in discharging functions of the authority, functions of the authority's executive, functions of a committee of the authority or functions of an officer of the authority (including decisions made in the discharge of any of those functions otherwise than by the person to whom the function was originally given);

"elected mayor" has the meaning given by section 9H or 39 of the Local Government Act 2000;

"member"—

(a) in relation to the Greater London Authority, means the Mayor of London or a London Assembly member, and

(b) in relation to a county council, district council, county borough council or London borough council, includes an elected mayor of the council;

"relevant authority" means—

(a) a county council,

(b) a district council,

(c) a county borough council,

(d) a London borough council,

(e) the Common Council of the City of London,

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(f) the Greater London Authority,
(g) a National Park authority,
(h) the Broads Authority,
(i) the Council of the Isles of Scilly,
(j) a parish council, or
(k) a community council.

(5) This section applies only to decisions made after this section comes into force, but the reference in subsection (2)(a) to anything previously done includes things done before this section comes into force.

CHAPTER 7

STANDARDS

26 Amendments of existing provisions

Schedule 4 (which amends the existing provisions relating to the conduct of local government members and employees in England and makes related provision) has effect.

Commencement Information
I14 S.26 in force for specified purposes at Royal Assent see s. 240(5)(b)

VALID FROM 07/06/2012

27 Duty to promote and maintain high standards of conduct

(1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.

(2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

(3) A relevant authority that is a parish council—
(a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and
(b) may for that purpose assume that its principal authority has complied with section 28(1) and (2).

(4) In this Chapter “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who—
(a) is a member of any committee or sub-committee of the authority, or
(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

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and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

(5) A reference in this Chapter to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

(6) In this Chapter "relevant authority" means—

(a) a county council in England,

(b) a district council,

(c) a London borough council,

(d) a parish council,

(e) the Greater London Authority,

[F1](f) . . . . . .

(g) the London Fire and Emergency Planning Authority,

(h) the Common Council of the City of London in its capacity as a local authority or police authority,

(i) the Council of the Isles of Scilly,

(j) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

(k) a police authority (in England or in Wales) established under section 3 of the Police Act 1996,

(l) a joint authority established by Part 4 of the Local Government Act 1985,

(m) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,

(n) a combined authority established under section 103 of that Act,

(o) the Broads Authority, or

(p) a National Park authority in England established under section 63 of the Environment Act 1995.

(7) Any reference in this Chapter to a member of a relevant authority—

(a) in the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;

(b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.

(8) Functions that are conferred by this Chapter on a relevant authority to which Part 1A of the Local Government Act 2000 applies are not to be the responsibility of an executive of the authority under executive arrangements.

(9) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(10) In this Chapter except section 35—

(a) a reference to a committee or sub-committee of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to—

(i) a committee or sub-committee of the London Assembly, or

(ii) the standards committee, or a sub-committee of that committee, established under that section,

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(b) a reference to a joint committee on which a relevant authority is represented is, where the relevant authority is the Greater London Authority, a reference to a joint committee on which the Authority, the London Assembly or the Mayor of London is represented,

(c) a reference to becoming a member of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to becoming the Mayor of London or a member of the London Assembly, and

(d) a reference to a meeting of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to a meeting of the London Assembly;

and in subsection (4)(b) the reference to representing the relevant authority is, where the relevant authority is the Greater London Authority, a reference to representing the Authority, the London Assembly or the Mayor of London.

Textual Amendments

F1 S. 27(6)(f) repealed (15.1.2012) by Localism Act 2011 (c. 20), ss. 36(a), 240(2), **Sch. 25 Pts. 5**; S.I. 2012/57, art. 4(1)(e) (with arts. 67arts. 9-11)

VALID FROM 07/06/2012

28 Codes of conduct

(1) A relevant authority must secure that a code adopted by it under section 27(2) (a "code of conduct") is, when viewed as a whole, consistent with the following principles—

(a) selflessness;

(b) integrity;

(c) objectivity;

(d) accountability;

(e) openness;

(f) honesty;

(g) leadership.

(2) A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—

(a) pecuniary interests, and

(b) interests other than pecuniary interests.

(3) Sections 29 to 34 do not limit what may be included in a relevant authority's code of conduct, but nothing in a relevant authority's code of conduct prejudices the operation of those sections.

(4) A failure to comply with a relevant authority's code of conduct is not be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.

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(5) A relevant authority may—
- (a) revise its existing code of conduct, or
- (b) adopt a code of conduct to replace its existing code of conduct.

(6) A relevant authority other than a parish council must have in place—
- (a) arrangements under which allegations can be investigated, and
- (b) arrangements under which decisions on allegations can be made.

(7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
- (b) whose views may be sought—
  - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
  - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
  - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.

(8) For the purposes of subsection (7)—
- (a) a person is not independent if the person is—
  - (i) a member, co-opted member or officer of the authority,
  - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or
  - (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);
- (b) a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—
  - (i) a member, co-opted member or officer of the authority, or
  - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;
- (c) a person may not be appointed under the provision required by subsection (7) unless—
  - (i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
  - (ii) the person has submitted an application to fill the vacancy to the authority, and
  - (iii) the person's appointment has been approved by a majority of the members of the authority;
- (d) a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.

(9) In subsections (6) and (7) “allegation”, in relation to a relevant authority, means a written allegation—

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(a) that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or

(b) that a member or co-opted member of a parish council for which the authority is the principal authority has failed to comply with the parish council's code of conduct.

(10) For the purposes of subsection (8) a person ("R") is a relative of another person if R is—

(a) the other person's spouse or civil partner,

(b) living with the other person as husband and wife or as if they were civil partners,

(c) a grandparent of the other person,

(d) a lineal descendant of a grandparent of the other person,

(e) a parent, sibling or child of a person within paragraph (a) or (b),

(f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or

(g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.

(11) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—

(a) whether to take action in relation to the member or co-opted member, and

(b) what action to take.

(12) A relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.

(13) A relevant authority's function of adopting, revising or replacing a code of conduct may be discharged only by the authority.

(14) Accordingly—

(a) in the case of an authority to whom section 101 of the Local Government Act 1972 (arrangements for discharge of functions) applies, the function is not a function to which that section applies;

(b) in the case of the Greater London Authority, the function is not a function to which section 35 (delegation of functions by the Greater London Authority) applies.

VALID FROM 07/06/2012

29 Register of interests

(1) The monitoring officer of a relevant authority must establish and maintain a register of interests of members and co-opted members of the authority.

(2) Subject to the provisions of this Chapter, it is for a relevant authority to determine what is to be entered in the authority's register.

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(3) Nothing in this Chapter requires an entry to be retained in a relevant authority's register once the person concerned—
  (a) no longer has the interest, or
  (b) is (otherwise than transitorily on re-election or re-appointment) neither a member nor a co-opted member of the authority.

(4) In the case of a relevant authority that is a parish council, references in this Chapter to the authority's monitoring officer are to the monitoring officer of the parish council's principal authority.

(5) The monitoring officer of a relevant authority other than a parish council must secure—
  (a) that a copy of the authority's register is available for inspection at a place in the authority's area at all reasonable hours, and
  (b) that the register is published on the authority's website.

(6) The monitoring officer of a relevant authority that is a parish council must—
  (a) secure that a copy of the parish council's register is available for inspection at a place in the principal authority's area at all reasonable hours,
  (b) secure that the register is published on the principal authority's website, and
  (c) provide the parish council with any data it needs to comply with subsection (7).

(7) A parish council must, if it has a website, secure that its register is published on its website.

(8) Subsections (5) to (7) are subject to section 32(2).

(9) In this Chapter "principal authority", in relation to a parish council, means—
  (a) in the case of a parish council for an area in a district that has a district council, that district council,
  (b) in the case of a parish council for an area in a London borough, the council of that London borough, and
  (c) in the case of a parish council for any other area, the county council for the county that includes that area.

(10) In this Chapter "register", in relation to a relevant authority, means its register under subsection (1).

VALID FROM 31/01/2012

30 Disclosure of pecuniary interests on taking office

(1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.

(2) Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards

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disclosable pecuniary interests not entered in the authority's register when the notification is given.

(3) For the purposes of this Chapter, a pecuniary interest is a "disclosable pecuniary interest" in relation to a person ("M") if it is of a description specified in regulations made by the Secretary of State and either—

(a) it is an interest of M's, or

(b) it is an interest of—

(i) M's spouse or civil partner,

(ii) a person with whom M is living as husband and wife, or

(iii) a person with whom M is living as if they were civil partners,

and M is aware that that other person has the interest.

(4) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

VALID FROM 07/06/2012

31 Pecuniary interests in matters considered at meetings or by a single member

(1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority—

(a) is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,

(b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and

(c) is aware that the condition in paragraph (b) is met.

(2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).

(3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.

(4) The member or co-opted member may not—

(a) participate, or participate further, in any discussion of the matter at the meeting, or

(b) participate in any vote, or further vote, taken on the matter at the meeting,

but this is subject to section 33.

(5) In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.

(6) Subsections (7) and (8) apply if—

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(a) a function of a relevant authority may be discharged by a member of the authority acting alone,

(b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and

(c) the member is aware that the condition in paragraph (b) is met.

(7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.

(8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).

(9) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).

(10) Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.

(11) For the purpose of this section, an interest is "subject to a pending notification" if—

(a) under this section or section 30, the interest has been notified to a relevant authority's monitoring officer, but

(b) has not been entered in the authority's register in consequence of that notification.

VALID FROM 01/07/2012

32 Sensitive interests

(1) Subsections (2) and (3) apply where—

(a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and

(b) the nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

(2) If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).

(3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the

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fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

VALID FROM 07/06/2012

33 Dispensations from section 31(4)

(1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.

(2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—

(a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,

(b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,

(c) considers that granting the dispensation is in the interests of persons living in the authority's area,

(d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or

(e) considers that it is otherwise appropriate to grant a dispensation.

(3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.

(4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

VALID FROM 01/07/2012

34 Offences

(1) A person commits an offence if, without reasonable excuse, the person—

(a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),

(b) participates in any discussion or vote in contravention of section 31(4), or

(c) takes any steps in contravention of section 31(8).

(2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—

(a) knows that the information is false or misleading, or

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(b) is reckless as to whether the information is true and not misleading.

(3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.

(5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.

(6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.

(7) But no such proceedings may be brought more than three years—
(a) after the commission of the offence, or
(b) in the case of a continuous contravention, after the last date on which the offence was committed.

(8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.

(9) The Local Government Act 1972 is amended as follows.

(10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after " 2000 " insert " or section 34 of the Localism Act 2011 ".

(11) In section 87(1)(ee) (date of casual vacancies)—
(a) after "2000" insert " or section 34 of the Localism Act 2011 or ", and
(b) after "decision" insert " or order ".

(12) The Greater London Authority Act 1999 is amended as follows.

(13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after sub-paragraph (i) insert—

"(ia) under section 34 of the Localism Act 2011,".

(14) In section 9(1)(f) (date of casual vacancies)—
(a) before "or by virtue of" insert " or section 34 of the Localism Act 2011 ", and
(b) after "that Act" insert " of 1998 or that section ".

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VALID FROM 07/06/2012

35 Delegation of functions by Greater London Authority

(1) The Mayor of London and the London Assembly, acting jointly, may arrange for any of the functions conferred on them by or under this Chapter to be exercised on their behalf by—
  (a) a member of staff of the Greater London Authority, or
  (b) a committee appointed in accordance with provision made by virtue of this section.

(2) Standing orders of the Greater London Authority may make provision regulating the exercise of functions by any member of staff of the Authority pursuant to arrangements under subsection (1).

(3) Standing orders of the Greater London Authority may make provision for the appointment of a committee ("the standards committee") to exercise functions conferred on the Mayor of London and the London Assembly by or under this Chapter in accordance with arrangements under subsection (1).

(4) Standing orders of the Greater London Authority may make provision about the membership and procedure of the standards committee.

(5) The provision that may be made under subsection (4) includes—
  (a) provision for the standards committee to arrange for the discharge of its functions by a sub-committee of that committee;
  (b) provision about the membership and procedure of such a sub-committee.

(6) Subject to subsection (7), the standards committee and any sub-committee of that committee—
  (a) is not to be treated as a committee or (as the case may be) sub-committee of the London Assembly for the purposes of the Greater London Authority Act 1999, but
  (b) is a committee or (as the case may be) sub-committee of the Greater London Authority for the purposes of Part 3 of the Local Government Act 1974 (investigations by Commission for Local Administration in England).

(7) Sections 6(3)(a) (failure to attend meetings) and 73(6) (functions of monitoring officer) of the Greater London Authority Act 1999 apply to the standards committee or any sub-committee of that committee as they apply to a committee of the London Assembly or any sub-committee of such a committee.

(8) Part 5A of the Local Government Act 1972 (access to meetings and documents) applies to the standards committee or any sub-committee of that committee as if—
  (a) it were a committee or (as the case may be) a sub-committee of a principal council within the meaning of that Part, and
  (b) the Greater London Authority were a principal council in relation to that committee or sub-committee.

(9) Arrangements under this section for the exercise of any function by—
  (a) a member of staff of the Greater London Authority, or
  (b) the standards committee,

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do not prevent the Mayor of London and the London Assembly from exercising those functions.

(10) References in this section to the functions of the Mayor of London and the London Assembly conferred by or under this Chapter do not include their functions under this section.

(11) In this section "member of staff of the Greater London Authority" has the same meaning as in the Greater London Authority Act 1999 (see section 424(1) of that Act).

36 Amendment of section 27 following abolition of police authorities

In section 27(6) (which defines "relevant authority" for the purposes of this Chapter) omit—

(a) paragraph (f) (the Metropolitan Police Authority), and

(b) paragraph (k) (police authorities).

Commencement Information

I15 S. 36 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(e)** (with arts. 6, 7, arts. 9-11)

37 Transitional provision

(1) An order under section 240(2) may, in particular, provide for any provision made by or under Part 3 of the Local Government Act 2000 to have effect with modifications in consequence of any partial commencement of any of the amendments to, or repeals of, provisions of that Part made by Schedule 4.

(2) An order under section 240(2) may, in particular, make provision for an allegation or a case that is being investigated under Part 3 of the Local Government Act 2000 by the Standards Board for England or an ethical standards officer—

(a) to be referred to an authority of a kind specified in or determined in accordance with the order;

(b) to be dealt with in accordance with provision made by the order.

(3) The provision that may be made by virtue of subsection (2)(b) includes—

(a) provision corresponding to any provision made by or under Part 3 of the Local Government Act 2000;

(b) provision applying any provision made by or under that Part with or without modifications.

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CHAPTER 8

PAY ACCOUNTABILITY

38 Pay policy statements

(1) A relevant authority must prepare a pay policy statement for the financial year 2012-2013 and each subsequent financial year.

(2) A pay policy statement for a financial year must set out the authority's policies for the financial year relating to—
- (a) the remuneration of its chief officers,
- (b) the remuneration of its lowest-paid employees, and
- (c) the relationship between—
  - (i) the remuneration of its chief officers, and
  - (ii) the remuneration of its employees who are not chief officers.

(3) The statement must state—
- (a) the definition of "lowest-paid employees" adopted by the authority for the purposes of the statement, and
- (b) the authority's reasons for adopting that definition.

(4) The statement must include the authority's policies relating to—
- (a) the level and elements of remuneration for each chief officer,
- (b) remuneration of chief officers on recruitment,
- (c) increases and additions to remuneration for each chief officer,
- (d) the use of performance-related pay for chief officers,
- (e) the use of bonuses for chief officers,
- (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and
- (g) the publication of and access to information relating to remuneration of chief officers.

(5) A pay policy statement for a financial year may also set out the authority's policies for the financial year relating to the other terms and conditions applying to the authority's chief officers.

Commencement Information
I16 S. 38 in force at 15.1.2012 for E. see s. 240(1)(b)

39 Supplementary provisions relating to statements

(1) A relevant authority's pay policy statement must be approved by a resolution of the authority before it comes into force.

(2) The first statement must be prepared and approved before the end of 31 March 2012.

(3) Each subsequent statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates.

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(4) A relevant authority may by resolution amend its pay policy statement (including after the beginning of the financial year to which it relates).

(5) As soon as is reasonably practicable after approving or amending a pay policy statement, the authority must publish the statement or the amended statement in such manner as it thinks fit (which must include publication on the authority's website).

Commencement Information
I17 S. 39 in force at 15.1.2012 for E., see s. 240(1)(b)

40 Guidance

(1) A relevant authority in England must, in performing its functions under section 38 or 39, have regard to any guidance issued or approved by the Secretary of State.

(2) A relevant authority in Wales must, in performing its functions under section 38 or 39, have regard to any guidance issued or approved by the Welsh Ministers.

Commencement Information
I18 S. 40 in force for E. at 15.1.2012 see s. 240(1)(b)

41 Determinations relating to remuneration etc

(1) This section applies to a determination that—
  (a) is made by a relevant authority in a financial year beginning on or after 1 April 2012 and
  (b) relates to the remuneration of or other terms and conditions applying to a chief officer of the authority.

(2) The relevant authority must comply with its pay policy statement for the financial year in making the determination.

(3) Any power of a fire and rescue authority within section 43(1)(i) to appoint officers and employees is subject to the requirement in subsection (2).

(4) In section 112 of the Local Government Act 1972 (appointment of staff) after subsection (2) insert—

"(2A) A local authority's power to appoint officers on such reasonable terms and conditions as the authority thinks fit is subject to section 41 of the Localism Act 2011 (requirement for determinations relating to terms and conditions of chief officers to comply with pay policy statement)."

Commencement Information
I19 S. 41 in force at 15.1.2012 for E., see s. 240(1)(b)

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42 Exercise of functions

(1) The functions conferred on a relevant authority by this Chapter are not to be the responsibility of an executive of the authority under executive arrangements.

(2) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of passing a resolution under this Chapter.

(3) The function of a fire and rescue authority within section 43(1)(i) of passing a resolution under this Chapter may not be delegated by the authority.

Commencement Information
I20 S. 42 in force at 15.1.2012 for E., see s. 240(1)(b)

43 Interpretation

(1) In this Chapter "relevant authority" means—
- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Common Council of the City of London in its capacity as a local authority,
- (f) the Council of the Isles of Scilly,
- (g) the London Fire and Emergency Planning Authority,
- (h) a metropolitan county fire and rescue authority, or
- (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.

(2) In this Chapter "chief officer", in relation to a relevant authority, means each of the following—
- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
- (b) its monitoring officer designated under section 5(1) of that Act;
- (c) a statutory chief officer mentioned in section 2(6) of that Act;
- (d) a non-statutory chief officer mentioned in section 2(7) of that Act;
- (e) a deputy chief officer mentioned in section 2(8) of that Act.

(3) In this Chapter "remuneration", in relation to a chief officer and a relevant authority, means—
- (a) the chief officer's salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the chief officer for those services,
- (b) any bonuses payable by the authority to the chief officer,
- (c) any charges, fees or allowances payable by the authority to the chief officer,
- (d) any benefits in kind to which the chief officer is entitled as a result of the chief officer's office or employment,

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(e) any increase in or enhancement of the chief officer's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and

(f) any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.

(4) In this Chapter "terms and conditions", in relation to a chief officer and a relevant authority, means the terms and conditions on which the chief officer holds office under or is employed by the authority.

(5) References in this Chapter to the remuneration of, or the other terms and conditions applying to, a chief officer include—

(a) the remuneration that may be provided to, or the terms and conditions that may apply to, that chief officer in the future, and

(b) the remuneration that is to be provided to, or the terms and conditions that are to apply to, chief officers of that kind that the authority may appoint in the future.

(6) In this Chapter "remuneration", in relation to a relevant authority and an employee of its who is not a chief officer, means—

(a) the employee's salary,

(b) any bonuses payable by the authority to the employee,

(c) any allowances payable by the authority to the employee,

(d) any benefits in kind to which the employee is entitled as a result of the employee's employment,

(e) any increase in or enhancement of the employee's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and

(f) any amounts payable by the authority to the employee on the employee ceasing to be employed by the authority, other than any amounts that may be payable by virtue of any enactment.

(7) References in this Chapter to the remuneration of an employee who is not a chief officer include—

(a) the remuneration that may be provided to that employee in the future, and

(b) the remuneration that is to be provided to employees of the same kind that the authority may employ in the future.

(8) In this Chapter—

"enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);

"financial year" means the period of 12 months ending with 31 March in any year.

Commencement Information

I21 S. 43 in force for E. at 15.1.2012 see s. 240(1)(b)

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CHAPTER 9

COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

44 Arrangements for provision of services and discharge of functions

(1) After section 33ZA of the Local Government Act 1974 insert—

"**33ZB Arrangements for provision of administrative and other services**

(1) Arrangements involving the Commission may be entered into by persons within subsection (4) for the provision of administrative, professional or technical services by any one or more of the parties for any one or more of the parties, whether for consideration or otherwise.

(2) For the purposes of subsection (1), arrangements for the provision of services involve the Commission if the Commission is one of the parties to the arrangements and at least one of the following conditions is met—
   (a) the Commission is the party, or one of the parties, by whom the services are to be provided;
   (b) the Commission is the party, or one of the parties, to whom the services are to be provided.

(3) The arrangements that may be entered into under subsection (1) include arrangements for—
   (a) the Commission, or
   (b) the Commission jointly with any one or more of the parties,

   to have the function of discharging, on behalf of a party, any function of that party which is of an administrative, professional or technical nature.

(4) The persons within this subsection are—
   (a) the Commission,
   (b) the Parliamentary Commissioner,
   (c) the Health Service Commissioner for England, and
   (d) the person administering a scheme approved under Schedule 2 to the Housing Act 1996 (scheme for enabling complaints to be investigated by a housing ombudsman)."

(2) In paragraph 13 of Schedule 4 to the Local Government Act 1974 (delegation by Local Commissioners) after sub-paragraph (2) insert—

"(3) Any function of the Commission may be discharged on the Commission's behalf—
   (a) by any person authorised by the Commission to do so, and
   (b) to the extent so authorised.

(4) Sub-paragraph (3) does not affect the responsibility of the Commission for the discharge of the function."

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CHAPTER 10

MISCELLANEOUS REPEALS

45 Repeal of duties relating to promotion of democracy

Chapter 1 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (duties relating to promotion of democracy) is repealed.

VALID FROM 01/04/2012

46 Repeal of provisions about petitions to local authorities

Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) is repealed.

47 Schemes to encourage domestic waste reduction by payments and charges

The following provisions are repealed—

(a) section 71(1) of, and Schedule 5 to, the Climate Change Act 2008 (which amend the Environmental Protection Act 1990 to enable waste collection authorities to make waste reduction schemes, but which have never been in force), and

(b) sections 71(2) and (3) and 72 to 75 of that Act (which provide for the provisions mentioned in paragraph (a) to be piloted and then either brought into force, with or without amendments, or repealed).

VALID FROM 31/05/2012

PART 2

EU FINANCIAL SANCTIONS

48 Power to require public authorities to make payments in respect of certain EU financial sanctions

(1) A Minister of the Crown may, in accordance with the provisions of this Part, require public authorities to make payments of amounts determined by a Minister of the Crown in respect of an EU financial sanction to which this Part applies.

(2) A requirement to make a payment under this Part—

(a) may only be imposed on a public authority if—

(i) the authority has been designated under section 52; and

(ii) the EU financial sanction concerned is one to which the designation applies; and

(b) must be imposed by a notice given to the authority under section 56 (referred to in this Part as a final notice).

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(3) If a final notice is registered in accordance with rules of court or any practice direction, it is enforceable in the same manner as an order of the High Court.

(4) Any sums paid by a public authority under this Part are to be paid into the Consolidated Fund.

(5) In this Part—
- (a) "EU financial sanction" means a sanction consisting of a lump sum or penalty payment (or both) imposed by the Court of Justice in Article 260(2) proceedings for an infraction of EU law;
- (b) "infraction of EU law", in relation to an EU financial sanction, means the failure to comply with a judgment of the Court of Justice given in proceedings under Article 258 or 259 of the Treaty on the Functioning of the European Union; and
- (c) "Article 260(2) proceedings" means proceedings under Article 260(2) of that Treaty.

49 Duty of the Secretary of State to issue a policy statement

(1) The Secretary of State must publish a statement of policy with respect to—
- (a) the designation of public authorities under section 52;
- (b) the imposition and variation of requirements to make payments under this Part; and
- (c) such other matters relating to the operation of the provisions of this Part as the Secretary of State may think it appropriate to include in the statement.

(2) The Secretary of State may from time to time revise and republish the statement of policy required by this section.

(3) A revised statement of policy may include saving or transitional provisions relating to the continued application for any purpose of any provisions of an earlier published version of the statement.

(4) The Secretary of State must consult such persons as the Secretary of State considers appropriate before publishing, or revising and republishing, the statement of policy required by this section.

(5) In exercising functions under this Part in relation to an EU financial sanction which has been or may be imposed on the United Kingdom—
- (a) a Minister of the Crown, and
- (b) a panel established under section 53,

must have regard to the statement of policy most recently published under this section.

50 The EU financial sanctions to which Part 2 applies

(1) This Part applies to any EU financial sanction imposed on the United Kingdom after the commencement of this Part, subject to subsection (2).

(2) If a Minister of the Crown gives a certificate—
- (a) specifying a part or parts of an EU financial sanction, and
- (b) stating that this Part is not to apply to that part, or those parts, of the sanction,

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this Part applies to that EU financial sanction as if it did not include that part or those parts.

(3) A certificate under subsection (2)—

(a) may make different provision about any of the following—

(i) the lump sum (if any) paid by the United Kingdom;

(ii) any periodic payment due from the United Kingdom under the terms of the EU financial sanction before the certificate is given; and

(iii) any subsequent periodic payment that may fall due from the United Kingdom under those terms; and

(b) must be given in such form and published in such manner as the Minister of the Crown giving it thinks fit.

(4) Any provision of a certificate under subsection (2) which has the effect of excluding the whole or part of any periodic payment mentioned in subsection (3)(a)(iii) (including any such payment which has fallen due from the United Kingdom since the earlier certificate was given) may be varied by a further certificate under subsection (2).

51 Meaning of "public authority" and related terms

(1) This section defines various terms used in this Part.

(2) "Public authority" means—

(a) a local authority to which subsection (3) applies; or

(b) any other person or body which has any non-devolved functions.

(3) This subsection applies to—

(a) any of the following in England—

(i) a county council, district council or London borough council;

(ii) the Common Council of the City of London (in its capacity as a local authority);

(iii) the Greater London Authority; and

(iv) the Council of the Isles of Scilly;

(b) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

(c) a district council within the meaning of the Local Government Act (Northern Ireland) 1972;

(d) a council of a county or county borough in Wales.

(4) References to functions are to functions of a public nature.

(5) References to non-devolved functions are to functions which are not devolved functions.

(6) References to devolved functions are to—

(a) Scottish devolved functions, that is to say functions the exercise of which would be within devolved competence (within the meaning of section 54 of the Scotland Act 1998);

(b) Northern Ireland devolved functions, that is to say functions which could be conferred by provision included in an Act of the Northern Ireland Assembly

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made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998); or

(c) Welsh devolved functions, that is to say functions which are exercisable in relation to Wales and could be conferred by provision falling within the legislative competence of the National Assembly for Wales as defined in section 108 of the Government of Wales Act 2006.

(7) References to a public authority with mixed functions are to a public authority which has both non-devolved and devolved functions.

(8) The "appropriate national authority", in relation to a public authority with mixed functions, means the following national authority or authorities (according to whichever one or more of the following paragraphs apply to that public authority)—

(a) the Scottish Ministers, if the public authority has any Scottish devolved functions;

(b) the relevant Northern Ireland department, if the public authority has any Northern Ireland devolved functions; and

(c) the Welsh Ministers, if the public authority has any Welsh devolved functions.

52 Designation of public authorities

(1) A Minister of the Crown may by order designate a public authority for the purposes of this Part.

(2) The order must—

(a) specify the public authority by name;

(b) identify any EU financial sanction to which the designation applies; and

(c) describe the activities of the authority which are covered by the designation.

(3) The order may identify an EU financial sanction for the purposes of subsection (2)(b) by—

(a) specifying an EU financial sanction that has been imposed on the United Kingdom;

(b) specifying any Article 260(2) proceedings that have been commenced and providing that the designation is to apply to any EU financial sanction that may be imposed on the United Kingdom in those proceedings;

(c) specifying a judgment of the Court of Justice finding that the United Kingdom has failed to comply with an EU obligation and providing that the designation is to apply to any EU financial sanction that may be imposed on the United Kingdom for failing to comply with that judgment; or

(d) specifying or describing any proceedings under Article 258 or 259 of the Treaty on the Functioning of the European Union that have been or may be commenced and providing that the designation is to apply to any EU financial sanction that may be imposed on the United Kingdom for failing to comply with a judgment of the Court of Justice given in those proceedings.

(4) The order may, for the purposes of subsection (3)(d), describe any proceedings under Article 258 or 259 that may be commenced by reference to the subject-matter of—

(a) a Reasoned Opinion addressed to the United Kingdom under Article 258 or 259 (as the case may be); or

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(b) any other document sent to the Government of the United Kingdom by the Commission of the European Union or by another member State which gives notice to the Government of the possibility of proceedings being commenced against the United Kingdom.

(5) The activities described for the purposes of subsection (2)(c) must be activities of the public authority which—
(a) are carried out in the exercise of non-devolved functions of the public authority; and
(b) take place after the provisions of the order describing the activities come into force.

(6) The following may not be designated under this section—
(a) the House of Commons, the House of Lords, the Scottish Parliament, the Northern Ireland Assembly or the National Assembly for Wales;
(b) a Minister of the Crown or a United Kingdom government department;
(c) a member of the Scottish Executive;
(d) the First Minister or the deputy First Minister for Northern Ireland, a Northern Ireland Minister or a Northern Ireland Department;
(e) a member of the Welsh Assembly Government;
(f) a court or tribunal.

(7) Before making an order designating a public authority a Minister of the Crown must consult—
(a) the public authority concerned; and
(b) if it is a public authority with mixed functions, the appropriate national authority.

(8) In sections 54 to 56 references to "acts", in relation to a public authority which has been designated under this section, are to acts within a description of activities covered by the designation.

53 Establishment of independent panel

(1) This section applies where—
(a) an EU financial sanction to which this Part applies has been imposed by the Court of Justice; and
(b) at least one public authority is the subject of a designation order under section 52 which applies to that EU financial sanction.

(2) A Minister of the Crown must establish a panel for the purpose of carrying out any functions it may be given by or under any provision of this Part in relation to that EU financial sanction.

(3) The panel must be established before any warning notice is given to a public authority in relation to that EU financial sanction.

(4) The panel is to consist of one or more individuals appointed by a Minister of the Crown who appear to a Minister of the Crown to have suitable qualifications, expertise or experience to carry out their duties.

(5) A Minister of the Crown may invite nominations for appointment to the panel from such organisations as a Minister of the Crown considers appropriate.

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(6) The validity of any acts of the panel is not affected by a vacancy among its members.

(7) A Minister of the Crown may pay to a member of the panel such fees, allowances or expenses as a Minister of the Crown may determine.

(8) A Minister of the Crown may provide such staff, accommodation or other facilities as a Minister of the Crown may consider necessary to enable the panel to carry out its functions.

54 Warning notices

(1) Before a public authority which has been designated under section 52 can be required to make any payment under this Part in respect of an EU financial sanction to which the designation applies—
- (a) a Minister of the Crown must give a warning notice under this section to the public authority;
- (b) the procedures set out in the warning notice (with any changes made under subsection (9)) must be followed; and
- (c) a Minister of the Crown must determine the matters mentioned in section 55(4).

(2) A warning notice is a notice stating that a Minister of the Crown, having regard to the judgment of the Court of Justice imposing the EU financial sanction, believes—
- (a) that acts of the authority may have caused or contributed to the infraction of EU law for which the EU financial sanction was imposed, and
- (b) that, if acts of the authority did cause or contribute to that infraction of EU law, it would be appropriate to consider requiring the authority to make payments under this Part (which may be or include ongoing payments) in respect of the EU financial sanction.

(3) The warning notice must also—
- (a) identify the EU financial sanction to which the notice relates;
- (b) specify the total amount of that sanction (see subsection (7));
- (c) if that sanction is or includes a penalty payment, specify the amount and frequency of any periodic payments that fall due from the United Kingdom under the terms of the penalty payment (see subsection (8));
- (d) set out the reasons for making the statement required by subsection (2);
- (e) set out the proposed procedures and arrangements for determining the matters mentioned in section 55(4) (which may include arrangements for securing that matters arising under the notice are dealt together with matters arising under other warning notices given to other public authorities in respect of the same EU financial sanction);
- (f) propose a timetable for those procedures and for any steps to be taken by the panel or a Minister of the Crown before any requirement to make a payment can be imposed on the authority;
- (g) invite the authority to make representations to a Minister of the Crown about the matters mentioned in paragraphs (e) and (f);
- (h) invite the authority to make representations to the panel (with any supporting evidence) about anything the authority considers relevant to the matters mentioned in section 55(4), including its response to any representations made (and any supporting evidence submitted) to the panel —

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(i) by a Minister of the Crown or a government department (whether in relation to matters arising from the notice or matters arising from any other warning notice given to another public authority in relation to the same EU financial sanction);

(ii) by another public authority which has been given a warning notice in relation to the same EU financial sanction; or

(iii) by the appropriate national authority in response to an invitation under paragraph (j) included in the notice; and

(j) if the authority has mixed functions, invite the appropriate national authority to make representations about anything contained in or arising from the notice.

(4) The warning notice may contain other such information as the Minister of the Crown giving it considers appropriate.

(5) Before a Minister of the Crown gives a warning notice to the authority, the Minister of the Crown must consult the panel as to the contents of the notice (including in particular the proposed procedures and timetable mentioned in subsection (3)(e) and (f)).

(6) If the authority has mixed functions, a Minister of the Crown must—

(a) consult the appropriate national authority before deciding to give a warning notice to the authority; and

(b) give the appropriate national authority a copy of any warning notice the Minister of the Crown decides to give.

(7) In subsection (3)(b) the "total amount of the sanction" means the sum of the following—

(a) the amount of the lump sum (if any) due from the United Kingdom under the terms of the EU financial sanction (disregarding any amount that falls to be excluded from the lump sum by virtue of section 50(2)); and

(b) the total amount of the periodic payments (if any) which have fallen due from the United Kingdom on or before a day specified in the notice (disregarding any amount that falls to be excluded from any of those payments by virtue of section 50(2));

and the day specified for the purposes of paragraph (b) must be no later than the day on which the warning notice is given to the authority.

(8) The periodic payments to be taken into account for the purposes of subsection (3)(c) do not include—

(a) any periodic payment taken into account in calculating the total amount of the sanction for the purposes of subsection (3)(b); or

(b) any periodic payment, or any part of a periodic payment, that falls to be excluded from the EU financial sanction by virtue of section 50(2).

(9) A Minister of the Crown may, after considering any representations made by the authority under subsection (3)(g) but before the matters mentioned in section 55(4) are determined, give the authority—

(a) a notice stating any changes that the Minister has decided to make to the procedures or timetable as originally set out in the warning notice under subsection (3)(e) and (f); and

(b) a copy of the warning notice incorporating those changes.

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(10) A Minister of the Crown must consult the panel before making any changes under subsection (9).

(11) A warning notice given to a public authority may be withdrawn at any time before the matters mentioned in section 55(4) are determined, but this does not prevent another warning notice being given to the authority in relation to the same EU financial sanction.

(12) In this section and section 55 "the panel" means the panel established under section 53 to deal with the EU financial sanction to which the notice relates.

55 Matters to be determined before a final notice is given

(1) This section applies where—
- (a) a warning notice has been given to a public authority; and
- (b) the panel has considered all representations made to it under the procedures set out in that notice.

(2) The panel must make, to a Minister of the Crown, a report on the matters to which the representations made to the panel relate.

(3) The report—
- (a) may be published by the panel in such manner as the panel thinks fit and, if not published by the panel, must be published by the Minister of the Crown to whom it is made in such manner as the Minister of the Crown thinks fit;
- (b) must include recommendations as to the determination of the matters mentioned in subsection (4)(a) and (b);
- (c) if the authority has made representations to the panel about anything the authority considers relevant to any of the matters mentioned in paragraphs (c) to (e) of subsection (4), must include recommendations as to the determination of the matters mentioned in those paragraphs; and
- (d) must include the panel's reasons for any recommendations included in the report.

(4) After having had regard to the report, a Minister of the Crown must determine the following matters—
- (a) whether any acts of the authority did cause or contribute to the infraction of EU law concerned and, in relation to any periodic payments, whether any acts of the authority have continued, and will continue, to cause or contribute to the continuation of that infraction;
- (b) the proportion of—
  - (i) the total amount of the sanction (being the amount to be specified under section 56(2)(b) if a final notice is given), and
  - (ii) any periodic payments not included in that total amount (including both payments that have fallen due since the date specified under section 54(7)(b) and future periodic payments),

  that, in the light of the acts of the authority which are determined to be relevant for the purposes of paragraph (a), is to be regarded as reflecting the authority's share of the responsibility for the infraction of EU law concerned or, in relation to a periodic payment mentioned in sub-paragraph (ii), the continuing infraction of EU law concerned;

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(c) whether the authority should be required to make any payment or payments in respect of the EU financial sanction;

(d) if so, what payment or payments the authority should make towards—

(i) the total amount of the sanction referred to in paragraph (b)(i); and

(ii) any periodic payments referred to in paragraph (b)(ii); and

(e) when any such payment or payments should be made.

(5) In determining the matters mentioned in subsection (4)(c), (d) and (e) the Minister of the Crown must have regard to—

(a) the effect on the authority's finances of any amount it may be required to pay and in particular, if the authority has mixed functions, the need to avoid any prejudicial effect on the performance by the authority of its devolved functions;

(b) the determination under subsection (4)(b); and

(c) any other relevant considerations.

(6) Before making a final decision on the matters mentioned in subsection (4)(c), (d) and (e), the Minister of the Crown must invite—

(a) representations from the authority about the potential effect on its finances and, if it has mixed functions, the effect on its devolved functions of any amount it may be required to pay; and

(b) if the authority has mixed functions, representations from the appropriate national authority.

56 Final notices

(1) A Minister of the Crown may give a final notice to a public authority only if a Minister of the Crown has decided in accordance with section 55 to impose a requirement under this Part on the authority.

(2) The final notice must—

(a) identify the EU financial sanction to which the notice relates;

(b) specify the total amount of the sanction (see subsection (3)) and, where relevant, the amount and frequency of any future periodic payments (see subsection (4));

(c) describe the acts of the authority that a Minister of the Crown has under section 55(4) determined—

(i) have caused or contributed to the infraction of EU law concerned; or

(ii) have caused or contributed, or will continue to cause or contribute, to the continuation of that infraction;

and set out the reasons for that determination;

(d) summarise the other determinations made by a Minister of the Crown under section 55(4) and set out the reasons for making them;

(e) specify the amount required to be paid by the authority towards the total amount of the sanction and when it is to be paid (and if it is to be paid in instalments, the instalments and the date on which they become payable);

(f) specify the amount or proportion required to be paid towards any future periodic payment (as defined for the purposes of paragraph (b)) and the time when that amount is to be paid (or, if the notice so provides, the time when two or more such amounts are to be paid); and

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(g) specify how and to whom payments are to be made.

(3) In subsection (2)(b) and (e) the "total amount of the sanction" means the sum of the following—

(a) the amount of the lump sum (if any) due from the United Kingdom under the terms of the EU financial sanction (disregarding any amount that falls to be excluded from the lump sum by virtue of section 50(2)); and

(b) the total amount of the periodic payments (if any) which have fallen due from the United Kingdom on or before a day specified in the final notice (disregarding any amount that falls to be excluded from any of those payments by virtue of section 50(2));

and the day specified for the purposes of paragraph (b) must be no later than the day on which the final notice is given to the authority.

(4) In subsection (2)(b) "future periodic payments" means periodic payments due from the United Kingdom other than—

(a) any periodic payment taken into account in calculating the total amount of the sanction; or

(b) any periodic payment, or any part of a periodic payment, that falls to be excluded from the EU financial sanction by virtue of section 50(2).

(5) The requirement to make payments towards periodic payments falling due from the United Kingdom after the notice is given continues so long as those periodic payments continue to fall due, unless a Minister of the Crown gives the authority a notice under this subsection terminating the requirement or varying it so as to make it less onerous for the authority.

(6) A notice under subsection (5) may be given, either on the application of the authority or without such an application, where a Minister of the Crown considers it appropriate in the light of a change in the circumstances which applied when the final notice was given or when it was last varied (as the case may be).

(7) A Minister of the Crown may—

(a) consult the panel, or refer any matter relating to the possible termination or variation of the requirement for its advice or recommendations;

(b) invite the authority to make representations; and

(c) if the authority has mixed functions, invite the appropriate national authority to make representations,

before deciding whether to terminate or vary the requirement mentioned in subsection (5).

(8) If the authority makes an application under subsection (6) a Minister of the Crown may by notice to the authority suspend the requirement until further notice (but this does not affect the liability to make any payment once the suspension is ended, unless the final notice is varied to have that effect).

57 Interpretation of Part: general

In this Part—

"act" includes omission;

"the appropriate national authority", in relation to a public authority with mixed functions, has the meaning given by section 51(8);

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"Article 260(2) proceedings" has the meaning given by section 48(5)(c);

"Court of Justice" means the Court of Justice of the European Union;

"EU financial sanction" has the meaning given by section 48(5)(a);

"final notice" means a notice under section 56;

"functions", "non-devolved functions" and "devolved functions" are to be construed in accordance with section 51;

"infraction of EU law", in relation to an EU financial sanction, has the meaning given by section 48(5)(b);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"periodic payment", in relation to an EU financial sanction that is or includes a penalty payment, means a payment due under the terms of the penalty payment;

"public authority" has the meaning given in section 51(2);

"public authority with mixed functions" has the meaning given by section 51(7);

"warning notice" means a notice under section 54.

PROSPECTIVE

PART 3

EU FINANCIAL SANCTIONS: WALES

58 Power to require Welsh public authorities to make payments in respect of certain EU financial sanctions

(1) The Welsh Ministers may, in accordance with the provisions of this Part, require Welsh public authorities to make payments of amounts determined by the Welsh Ministers in respect of an EU financial sanction to which this Part applies.

(2) A requirement to make a payment under this Part—

(a) may only be imposed on a Welsh public authority if—

(i) the authority has been designated under section 62; and

(ii) the EU financial sanction concerned is one to which the designation applies; and

(b) must be imposed by a notice given to the authority under section 66 (referred to in this Part as a final notice).

(3) If a final notice is registered in accordance with rules of court or any practice direction, it is enforceable in the same manner as an order of the High Court.

(4) Any sums paid by a Welsh public authority under this Part are to be paid into the Welsh Consolidated Fund.

(5) In this Part—

(a) "EU financial sanction" means a sanction consisting of a lump sum or penalty payment (or both) imposed by the Court of Justice in Article 260(2) proceedings for an infraction of EU law;

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(b) "infraction of EU law", in relation to an EU financial sanction, means the failure to comply with a judgment of the Court of Justice given in proceedings under Article 258 or 259 of the Treaty on the Functioning of the European Union; and

(c) "Article 260(2) proceedings" means proceedings under Article 260(2) of that Treaty.

59 Duty of the Welsh Ministers to issue a policy statement

(1) The Welsh Ministers must publish a statement of policy with respect to—

(a) the designation of Welsh public authorities under section 62;

(b) the imposition and variation of requirements to make payments under this Part; and

(c) such other matters relating to the operation of the provisions of this Part as the Welsh Ministers may think it appropriate to include in the statement.

(2) The Welsh Ministers may from time to time revise and republish the statement of policy required by this section.

(3) A revised statement of policy may include saving or transitional provisions relating to the continued application for any purpose of any provisions of an earlier published version of the statement.

(4) The Welsh Ministers must consult such persons as the Welsh Ministers consider appropriate before publishing, or revising and republishing, the statement of policy required by this section.

(5) In exercising functions under this Part in relation to an EU financial sanction which has been or may be imposed on the United Kingdom—

(a) the Welsh Ministers, and

(b) a panel established under section 63,

must have regard to the statement of policy most recently published under this section.

60 The EU financial sanctions to which Part 3 applies

(1) This Part applies to an EU financial sanction imposed on the United Kingdom if—

(a) the sanction is imposed after the commencement of this Part, and

(b) the Welsh Ministers certify that this Part applies to the sanction.

(2) If a certificate under subsection (1)—

(a) specifies a part or parts of the EU financial sanction concerned, and

(b) states that this Part applies only to that part, or those parts, of the sanction,

this Part applies to the sanction as if it included only that part or those parts.

(3) A certificate under subsection (1)—

(a) may make different provision about any of the following—

(i) the lump sum (if any) paid by the United Kingdom;

(ii) any periodic payment due from the United Kingdom under the terms of the EU financial sanction before the certificate is given; and

(iii) any future periodic payment that may fall due from the United Kingdom under those terms; and

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(b) must be given in such form and published in such manner as the Welsh Ministers think fit.

(4) Any provision of a certificate under subsection (1) which has the effect of excluding the whole or part of any periodic payment mentioned in subsection (3)(a)(iii) (including any such payment which has fallen due from the United Kingdom since the earlier certificate was given) may be varied by a further certificate under subsection (1).

61 Meaning of "Welsh public authority" and related terms

(1) Subsections (2) to (5) define various terms used in this Part.

(2) "Welsh public authority" means—

(a) a council of a county or county borough in Wales; or

(b) any other person or body which has any Welsh devolved functions.

(3) References to functions are to functions of a public nature.

(4) References to Welsh devolved functions are to functions which are exercisable in relation to Wales and could be conferred by provision falling within the legislative competence of the National Assembly for Wales as defined in **[**[F2]section 108A**]** of the Government of Wales Act 2006.

(5) The "appropriate national authority", in relation to a Welsh public authority with any functions other than Welsh devolved functions, means the following national authority or authorities (according to whichever one or more of the following paragraphs apply to that Welsh public authority)—

(a) a Minister of the Crown, if the Welsh public authority has any functions which are not devolved functions;

(b) the Scottish Ministers, if the Welsh public authority has any Scottish devolved functions; and

(c) the relevant Northern Ireland Department, if the Welsh public authority has any Northern Ireland devolved functions.

(6) In subsection (5)(a) "devolved functions" means—

(a) Welsh devolved functions;

(b) Scottish devolved functions; or

(c) Northern Ireland devolved functions.

(7) In subsections (5) and (6)—

"Northern Ireland devolved functions" means functions which could be conferred by provision included in an Act of the Northern Ireland Assembly made without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998);

"Scottish devolved functions" means functions the exercise of which would be within devolved competence (within the meaning of section 54 of the Scotland Act 1998).

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Textual Amendments

F2 Words in s. 61(4) substituted (1.4.2018) by Wales Act 2017 (c. 4), s. 71(4), **Sch. 6 para. 90** (with Sch. 7 paras. 1, 6); S.I. 2017/1179, reg. 3(r)

62 Designation of Welsh public authorities

(1) The Welsh Ministers may by order designate a Welsh public authority for the purposes of this Part.

(2) The order must—
- (a) specify the Welsh public authority by name;
- (b) identify any EU financial sanction to which the designation applies; and
- (c) describe the activities of the authority which are covered by the designation.

(3) The order may identify an EU financial sanction for the purposes of subsection (2)(b) by—
- (a) specifying an EU financial sanction that has been imposed on the United Kingdom;
- (b) specifying any Article 260(2) proceedings that have been commenced and providing that the designation is to apply to any EU financial sanction that may be imposed on the United Kingdom in those proceedings;
- (c) specifying a judgment of the Court of Justice finding that the United Kingdom has failed to comply with an EU obligation and providing that the designation is to apply to any EU financial sanction that may be imposed on the United Kingdom for failing to comply with that judgment; or
- (d) specifying or describing any proceedings under Article 258 or 259 of the Treaty on the Functioning of the European Union that have been or may be commenced and providing that the designation is to apply to any EU financial sanction that may be imposed on the United Kingdom for failing to comply with a judgment of the Court of Justice given in those proceedings.

(4) The order may, for the purposes of subsection (3)(d), describe any proceedings under Article 258 or 259 that may be commenced by reference to the subject-matter of—
- (a) a Reasoned Opinion addressed to the United Kingdom under Article 258 or 259 (as the case may be); or
- (b) any other document sent to the Government of the United Kingdom by the Commission of the European Union or by another member State which gives notice to the Government of the possibility of proceedings being commenced against the United Kingdom.

(5) The activities described for the purposes of subsection (2)(c) must be activities of the Welsh public authority which—
- (a) are carried out in the exercise of Welsh devolved functions of the authority; and
- (b) take place after the provisions of the order describing the activities come into force.

(6) The following may not be designated under this section—
- (a) the National Assembly for Wales;
- (b) a Minister of the Crown or a United Kingdom government department;

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(c) a member of the Welsh Assembly Government;
(d) a court or tribunal.

(7) Before making an order designating a Welsh public authority the Welsh Ministers must consult—
(a) the authority concerned; and
(b) if the authority concerned has any functions other than Welsh devolved functions, the appropriate national authority.

(8) In sections 64 to 66 references to "acts", in relation to a Welsh public authority which has been designated under this section, are to acts within a description of activities covered by the designation.

63 Establishment of independent panel

(1) This section applies where—
(a) an EU financial sanction to which this Part applies has been imposed by the Court of Justice; and
(b) at least one Welsh public authority is the subject of a designation order under section 62 which applies to that EU financial sanction.

(2) The Welsh Ministers must establish a panel for the purpose of carrying out any functions it may be given by or under any provision of this Part in relation to that EU financial sanction.

(3) The panel must be established before any warning notice is given to a Welsh public authority in relation to that EU financial sanction.

(4) The panel is to consist of one or more individuals appointed by the Welsh Ministers who appear to the Welsh Ministers to have suitable qualifications, expertise or experience to carry out their duties.

(5) The Welsh Ministers may invite nominations for appointment to the panel from such organisations as the Welsh Ministers consider appropriate.

(6) The validity of any acts of the panel is not affected by a vacancy among its members.

(7) The Welsh Ministers may pay to a member of the panel such fees, allowances or expenses as the Welsh Ministers may determine.

(8) The Welsh Ministers may provide such staff, accommodation or other facilities as the Welsh Ministers may consider necessary to enable the panel to carry out its functions.

64 Warning notices

(1) Before a Welsh public authority which has been designated under section 62 can be required to make any payment under this Part in respect of an EU financial sanction to which the designation applies—
(a) the Welsh Ministers must give a warning notice under this section to the authority;
(b) the procedures set out in the warning notice (with any changes made under subsection (9)) must be followed; and
(c) the Welsh Ministers must determine the matters mentioned in section 65(4).

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(2) A warning notice is a notice stating that the Welsh Ministers, having regard to the judgment of the Court of Justice imposing the EU financial sanction, believe—

(a) that acts of the authority may have caused or contributed to the infraction of EU law for which the EU financial sanction was imposed; and

(b) that, if acts of the authority did cause or contribute to that infraction of EU law, it would be appropriate to consider requiring the authority to make payments under this Part (which may be or include ongoing payments) in respect of the EU financial sanction.

(3) The warning notice must also—

(a) identify the EU financial sanction to which the notice relates;

(b) specify the total amount of that sanction (see subsection (7));

(c) if that sanction is or includes a penalty payment, specify the amount and frequency of any periodic payments that fall due from the United Kingdom under the terms of the penalty payment (see subsection (8));

(d) set out the reasons for making the statement required by subsection (2);

(e) set out the proposed procedures and arrangements for determining the matters mentioned in section 65(4) (which may include arrangements for securing that matters arising under the notice are dealt together with matters arising under other warning notices given to other Welsh public authorities in respect of the same EU financial sanction);

(f) propose a timetable for those procedures and for any steps to be taken by the panel or the Welsh Ministers before any requirement to make a payment can be imposed on the authority;

(g) invite the authority to make representations to the Welsh Ministers about the matters mentioned in paragraphs (e) and (f);

(h) invite the authority to make representations to the panel (with any supporting evidence) about anything the authority considers relevant to the matters mentioned in section 65(4), including its response to any representations made (and any supporting evidence submitted) to the panel —

(i) by the Welsh Ministers (whether in relation to matters arising from the notice or matters arising from any other warning notice given to another Welsh public authority in relation to the same EU financial sanction);

(ii) by another Welsh public authority which has been given a warning notice in relation to the same EU financial sanction; or

(iii) by the appropriate national authority in response to an invitation under paragraph (j) included in the notice; and

(j) if the authority has any functions other than Welsh devolved functions, invite the appropriate national authority to make representations about anything contained in or arising from the notice.

(4) The warning notice may contain such other information as the Welsh Ministers consider appropriate.

(5) Before giving a warning notice to the authority, the Welsh Ministers must consult the panel as to the contents of the notice (including in particular the proposed procedures and timetable mentioned in subsection (3)(e) and (f)).

(6) If the authority has any functions other than Welsh devolved functions, the Welsh Ministers must—

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(a) consult the appropriate national authority before deciding to give a warning notice to the authority; and

(b) give the appropriate national authority a copy of any warning notice the Welsh Ministers decide to give.

(7) In subsection (3)(b) the "total amount of the sanction" means the sum of the following—

(a) the amount of the lump sum (if any) due from the United Kingdom under the terms of the EU financial sanction (disregarding any amount that falls to be excluded from the lump sum by virtue of section 60(2)); and

(b) the total amount of the periodic payments (if any) which have fallen due from the United Kingdom on or before a day specified in the notice (disregarding any amount that falls to be excluded from any of those payments by virtue of section 60(2));

and the day specified for the purposes of paragraph (b) must be no later than the day on which the warning notice is given to the authority.

(8) The periodic payments to be taken into account for the purposes of subsection (3)(c) do not include—

(a) any periodic payment taken into account in calculating the total amount of the sanction for the purposes of subsection (3)(b); or

(b) any periodic payment, or any part of a periodic payment, that falls to be excluded from the EU financial sanction by virtue of section 60(2).

(9) The Welsh Ministers may, after considering any representations made by the authority under subsection (3)(g) but before the matters mentioned in section 65(4) are determined, give the authority—

(a) a notice stating any changes that the Welsh Ministers have decided to make to the procedures or timetable as originally set out in the warning notice under subsection (3)(e) and (f); and

(b) a copy of the warning notice incorporating those changes.

(10) The Welsh Ministers must consult the panel before making any changes under subsection (9).

(11) A warning notice given to a Welsh public authority may be withdrawn at any time before the matters mentioned in section 65(4) are determined, but this does not prevent another warning notice being given to the authority in relation to the same EU financial sanction.

(12) In this section and section 65 "the panel" means the panel established under section 63 to deal with the EU financial sanction to which the notice relates.

65 Matters to be determined before a final notice is given

(1) This section applies where—

(a) a warning notice has been given to a Welsh public authority; and

(b) the panel has considered all representations made to it under the procedures set out in that notice.

(2) The panel must make a report to the Welsh Ministers on the matters to which the representations made to the panel relate.

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(3) The report—

(a) may be published by the panel in such manner as the panel thinks fit and, if not published by the panel, must be published by the Welsh Ministers in such manner as they think fit;

(b) must include recommendations as to the determination of the matters mentioned in subsection (4)(a) and (b);

(c) if the authority has made representations to the panel about anything the authority considers relevant to any of the matters mentioned in paragraphs (c) to (e) of subsection (4), must include recommendations as to the determination of the matters mentioned in those paragraphs; and

(d) must include the panel's reasons for any recommendations included in the report.

(4) After having had regard to the report, the Welsh Ministers must determine the following matters—

(a) whether any acts of the authority did cause or contribute to the infraction of EU law concerned and, in relation to any periodic payments, whether any acts of the authority have continued, and will continue, to cause or contribute to the continuation of that infraction;

(b) the proportion of—

(i) the total amount of the sanction (being the amount to be specified under section 66(2)(b) if a final notice is given), and

(ii) any periodic payments not included in that total amount (including both payments that have fallen due since the date specified under section 64(7)(b) and future periodic payments),

that, in the light of the acts of the authority which are determined to be relevant for the purposes of paragraph (a), is to be regarded as reflecting the authority's share of the responsibility for the infraction of EU law concerned or, in relation to a periodic payment mentioned in sub-paragraph (ii), the continuing infraction of EU law concerned;

(c) whether the authority should be required to make any payment or payments in respect of the EU financial sanction;

(d) if so, what payment or payments the authority should make towards—

(i) the total amount of the sanction referred to in paragraph (b)(i); and

(ii) any periodic payments referred to in paragraph (b)(ii); and

(e) when any such payment or payments should be made.

(5) In determining the matters mentioned in subsection (4)(c), (d) and (e) the Welsh Ministers must have regard to—

(a) the effect on the authority's finances of any amount it may be required to pay and in particular, if the authority has any functions other than Welsh devolved functions, the need to avoid any prejudicial effect on the performance by the authority of those other functions;

(b) the determination under subsection (4)(b); and

(c) any other relevant considerations.

(6) Before making a final decision on the matters mentioned in subsection (4)(c), (d) and (e), the Welsh Ministers must invite—

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(a) representations from the authority about the potential effect on its finances and, if it has any functions other than Welsh devolved functions, the effect on those other functions of any amount it may be required to pay; and

(b) if the authority has any functions other than Welsh devolved functions, representations from the appropriate national authority.

66 Final notices

(1) The Welsh Ministers may give a final notice to a Welsh public authority only if they have decided in accordance with section 65 to impose a requirement under this Part on the authority.

(2) The final notice must—

(a) identify the EU financial sanction to which the notice relates;

(b) specify the total amount of the sanction (see subsection (3)) and, where relevant, the amount and frequency of any future periodic payments (see subsection (4));

(c) describe the acts of the authority that the Welsh Ministers have under section 65(4) determined—

(i) have caused or contributed to the infraction of EU law concerned; or

(ii) have caused or contributed, or will continue to cause or contribute, to the continuation of that infraction;

and set out the reasons for that determination;

(d) summarise the other determinations made by the Welsh Ministers under section 65(4) and set out the reasons for making them;

(e) specify the amount required to be paid by the authority towards the total amount of the sanction and when it is to be paid (and if it is to be paid in instalments, the instalments and the date on which they become payable);

(f) specify the amount or proportion required to be paid towards any future periodic payment (as defined for the purposes of paragraph (b)) and the time when that amount is to be paid (or, if the notice so provides, the time when two or more such amounts are to be paid); and

(g) specify how and to whom payments are to be made.

(3) In subsection (2)(b) and (e) the "total amount of the sanction" means the sum of the following—

(a) the amount of the lump sum (if any) due from the United Kingdom under the terms of the EU financial sanction (disregarding any amount that falls to be excluded from the lump sum by virtue of section 60(2)); and

(b) the total amount of the periodic payments (if any) which have fallen due from the United Kingdom on or before a day specified in the final notice (disregarding any amount that falls to be excluded from any of those payments by virtue of section 60(2));

and the day specified for the purposes of paragraph (b) must be no later than the day on which the final notice is given to the authority.

(4) In subsection (2)(b) "future periodic payments" means periodic payments due from the United Kingdom other than—

(a) any periodic payment taken into account in calculating the total amount of the sanction; or

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(b) any periodic payment, or any part of a periodic payment, that falls to be excluded from the EU financial sanction by virtue of section 60(2).

(5) The requirement to make payments towards periodic payments falling due from the United Kingdom after the notice is given continues so long as those periodic payments continue to fall due, unless the Welsh Ministers give the authority a notice under this subsection terminating the requirement or varying it so as to make it less onerous for the authority.

(6) A notice under subsection (5) may be given, either on the application of the authority or without such an application, where the Welsh Ministers consider it appropriate in the light of a change in the circumstances which applied when the final notice was given or when it was last varied (as the case may be).

(7) The Welsh Ministers may—

(a) consult the panel, or refer any matter relating to the possible termination or variation of the requirement for its advice or recommendations;

(b) invite the authority to make representations; and

(c) if the authority has any functions other than Welsh devolved functions, invite the appropriate national authority to make representations,

before deciding whether to terminate or vary the requirement mentioned in subsection (5).

(8) If the authority makes an application under subsection (6) the Welsh Ministers may by notice to the authority suspend the requirement until further notice (but this does not affect the liability to make any payment once the suspension is ended, unless the final notice is varied to have that effect).

67 Interpretation of Part: general

In this Part—

"act" includes omission;

"the appropriate national authority", in relation to a Welsh public authority with any functions other than Welsh devolved functions, has the meaning given by section 61(5);

"Article 260(2) proceedings" has the meaning given by section 58(5)(c);

"Court of Justice" means the Court of Justice of the European Union;

"EU financial sanction" has the meaning given by section 58(5)(a);

"final notice" means a notice under section 66;

"functions" and "Welsh devolved functions" are to be construed in accordance with section 61(3) and (4);

"infraction of EU law", in relation to an EU financial sanction, has the meaning given by section 58(5)(b);

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"periodic payment", in relation to an EU financial sanction that is or includes a penalty payment, means a payment due under the terms of the penalty payment;

"warning notice" means a notice under section 64;

"Welsh public authority" has the meaning given in section 61(2).

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PART 4

NON-DOMESTIC RATES ETC

Business rate supplements

68 Ballot for imposition and certain variations of a business rate supplement

(1) The Business Rate Supplements Act 2009 ("the 2009 Act") is amended as follows.

(2) In section 4(c) (condition for imposing a BRS) for "where there is to be a ballot on the imposition of the BRS, the ballot" substitute " a ballot ".

(3) In section 7 (holding of ballot) omit subsections (1), (2) and (5) (provision about the circumstances in which a ballot on the imposition of a BRS is to be held).

(4) In section 8(1) (meaning of approve by ballot) for "If a ballot on the imposition of a BRS is held, the imposition of the BRS" substitute " The imposition of a BRS ".

(5) In section 10 (variations)—
- (a) in subsection (2)(c) (condition for varying a BRS) omit the words from the beginning to "subsection (7),", and
- (b) omit subsections (7) to (9) (provision about the circumstances in which a ballot on a proposal to vary a BRS is to be held).

(6) In Schedule 1 (information to be included in a prospectus for a BRS) for paragraphs 19 and 20 (information required in relation to a ballot on the imposition of the BRS) substitute—

"19 In an initial prospectus, a statement that there is to be a ballot on the imposition of the BRS.

20 In a final prospectus—
- (a) a statement that a ballot has been held on the imposition of the BRS;
- (b) the results of the ballot, including in particular—
  - (i) the total number of votes cast,
  - (ii) the number of persons who voted in favour of the imposition of the BRS,
  - (iii) the number of persons who voted against its imposition,
  - (iv) the aggregate of the rateable values of each hereditament in respect of which a person voted in the ballot,
  - (v) the aggregate of the rateable values of each hereditament in respect of which a person voted in favour of the imposition of the BRS, and
  - (vi) the aggregate of the rateable values of each hereditament in respect of which a person voted against its imposition."

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(7) The amendments made by this section do not apply in relation to a BRS imposed before the date this section comes into force (whether or not the chargeable period of the BRS has begun before that date).

(8) In this section—

"BRS" means a business rate supplement (see section 1 of the 2009 Act);

"chargeable period" has the meaning given by section 11(6) of that Act.

Commencement Information

I22 S. 68 in force at 15.1.2012 for E. by S.I. 2012/57, **art. 3(a)**

Non-domestic rates

69 Non-domestic rates: discretionary relief

(1) Section 47 of the Local Government Finance Act 1988 (non-domestic rates: discretionary relief) is amended as follows.

(2) In subsection (1) (eligibility for relief) for the words from "the first and second conditions" to "are fulfilled" substitute " the condition mentioned in subsection (3) below is fulfilled ".

(3) Omit subsection (2) (the first eligibility condition).

(4) In subsection (3) (the second eligibility condition) omit "second".

(5) Omit subsections (3A) to (3D) (the other eligibility conditions).

(6) After subsection (5) insert—

"(5A) So far as a decision under subsection (3) above would have effect where none of section 43(6) above, section 43(6B) above and subsection (5B) below applies, the billing authority may make the decision only if it is satisfied that it would be reasonable for it to do so, having regard to the interests of persons liable to pay council tax set by it.

(5B) This subsection applies on the chargeable day if—

(a) all or part of the hereditament is occupied for the purposes of one or more institutions or other organisations—

(i) none of which is established or conducted for profit, and

(ii) each of whose main objects are charitable or are otherwise philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts, or

(b) the hereditament—

(i) is wholly or mainly used for purposes of recreation, and

(ii) all or part of it is occupied for the purposes of a club, society or other organisation not established or conducted for profit.

(5C) A billing authority in England, when making a decision under subsection (3) above, must have regard to any relevant guidance issued by the Secretary of State.

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(5D) A billing authority in Wales, when making a decision under subsection (3) above, must have regard to any relevant guidance issued by the Welsh Ministers."

(7) Before subsection (9) insert—

"(8A) This section does not apply where the hereditament is an excepted hereditament."

(8 Sub-paragraph (6) of paragraph 4 of Schedule 8 to the Local Government Finance Act 1988 (contributions regulations for a financial year to be in force by preceding 1 January) does not apply to regulations under that paragraph in their application to the financial year beginning in 2012 so far as they make provision related to the operation of section 47 of that Act as amended by this Act.

Commencement Information

I23 S. 69(1)-(7) in force at 15.1.2012 for specified purposes for E. by S.I. 2012/57, **art. 3(b)**

I24 S. 69(8) in force at 3.12.2011 by S.I. 2011/2896, **art. 2(f)**

70 Small business relief

(1) Section 43 of the Local Government Finance Act 1988 (liability to non-domestic rates) is amended as follows.

(2) In subsection (4B)(a) (small business relief: England) omit—

(a) sub-paragraph (i) (maximum rateable value of hereditament), and

(b) sub-paragraph (iii) (requirement for application).

(3) Omit subsection (4C) (form and content of application).

(4) In subsection (4D) (offence of making false application)—

(a) after "If" insert " the ratepayer makes an application in order to satisfy a condition prescribed under subsection (4B)(a)(ii) above and ",

(b) in paragraph (a) for "an application under subsection (4B)(a)(iii) above" substitute " the application ", and

(c) in paragraph (b) for "such an" substitute " the ".

Commencement Information

I25 S. 70 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(f)** (with arts. 6, 7, arts. 9-11)

71 Cancellation of liability to backdated non-domestic rates

After section 49 of the Local Government Finance Act 1988 insert—

"**49A Cancellation of backdated liabilities for days in years 2005 to 2010**

(1) The Secretary of State may by regulations provide that, in a prescribed case, the chargeable amount under section 43 or 45 for a hereditament in England for a chargeable day is zero.

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(2) The regulations may give that relief in relation to a hereditament and a chargeable day only if—
  (a) the hereditament is shown for the day in a local non-domestic rating list compiled on 1 April 2005, and
  (b) it is shown for that day as it is shown as the result of an alteration of the list made after the list was compiled.

(3) The regulations may give that relief in relation to a hereditament and a chargeable day subject to the fulfilment of prescribed conditions.

(4) A prescribed condition may be—
  (a) a condition to be fulfilled in relation to the hereditament,
  (b) a condition to be fulfilled in relation to some other hereditament, or
  (c) some other condition.

(5) The conditions that may be prescribed include, in particular—
  (a) conditions relating to the circumstances in which an alteration of a local non-domestic rating list was made;
  (b) conditions relating to the consequences of the alteration;
  (c) conditions relating to the length of the period beginning with the first day from which an alteration had effect and ending with the day on which the alteration was made;
  (d) conditions relating to a person's liability or otherwise to non-domestic rates at any time.”

PART 5

COMMUNITY EMPOWERMENT

CHAPTER 1

COUNCIL TAX

72 Referendums relating to council tax increases

(1) In Part 1 of the Local Government Finance Act 1992 (council tax: England and Wales) after Chapter 4 insert the Chapter set out in Schedule 5.

(2) Schedule 6 (council tax referendums: further amendments) has effect.

Commencement Information
I26 S. 72 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

73 References to proper accounting practices

In section 21(4) of the Local Government Act 2003 (enactments to which provisions about references to proper accounting practices apply)—
  (a) at the end of paragraph (c) insert—

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"(ca) the Local Government Finance Act 1992 (c. 14),", and

(b) for the "and" at the end of paragraph (d) substitute—

"(da) the Greater London Authority Act 1999 (c. 29), and".

Commencement Information

I27 S. 73 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

74 Council tax calculations by billing authorities in England

Before section 32 of the Local Government Finance Act 1992 insert—

"31A Calculation of council tax requirement by authorities in England

(1) In relation to each financial year a billing authority in England must make the calculations required by this section.

(2) The authority must calculate the aggregate of—

(a) the expenditure which the authority estimates it will incur in the year in performing its functions and will charge to a revenue account, other than a BID Revenue Account, for the year in accordance with proper practices,

(b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices,

(c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure,

(d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for,

(e) any amounts which it estimates will be transferred in the year from its general fund to its collection fund in accordance with section 97(4) of the 1988 Act, and

(f) any amounts which it estimates will be transferred from its general fund to its collection fund pursuant to a direction under section 98(5) of the 1988 Act and charged to a revenue account for the year.

(3) The authority must calculate the aggregate of—

(a) the income which it estimates will accrue to it in the year and which it will credit to a revenue account, other than a BID Revenue Account, for the year in accordance with proper practices,

(b) any amounts which it estimates will be transferred in the year from its collection fund to its general fund in accordance with section 97(3) of the 1988 Act,

(c) any amounts which it estimates will be transferred from its collection fund to its general fund pursuant to a direction under section 98(4) of the 1988 Act and will be credited to a revenue account for the year, and

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(d) the amount of the financial reserves which the authority estimates it will use in order to provide for the items mentioned in subsection (2)(a), (b), (e) and (f) above.

(4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its council tax requirement for the year.

(5) In making the calculation under subsection (2) above the authority must ignore payments which must be met from its collection fund under section 90(2) of the 1988 Act or from a trust fund.

(6) In estimating under subsection (2)(a) above the authority must take into account—

(a) the amount of any expenditure which it estimates it will incur in the year in making any repayments of grants or other sums paid to it by the Secretary of State, and

(b) the amount of any precept issued to it for the year by a local precepting authority and the amount of any levy or special levy issued to it for the year.

(7) But (except as provided by regulations under section 41 below or regulations under section 74 or 75 of the 1988 Act) the authority must not anticipate a precept, levy or special levy not issued.

(8) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is—

(a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year in accordance with proper practices and will have to defray in the year before the following sums are sufficiently available—

(i) sums which will be payable for the year into its general fund and in respect of which amounts will be credited to a revenue account for the year in accordance with proper practices, and

(ii) sums which will be transferred as regards the year from its collection fund to its general fund, and

(b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year in accordance with proper practices.

(9) In making the calculation under subsection (3) above the authority must ignore—

(a) payments which must be made into its collection fund under section 90(1) of the 1988 Act or to a trust fund, and

(b) subject to paragraphs (b) and (c) of subsection (3) above, sums which have been or are to be transferred from its collection fund to its general fund.

(10) The Secretary of State may by regulations do either or both of the following—

(a) alter the constituents of any calculation to be made under subsection (2) or (3) above (whether by adding, deleting or amending items);

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(b) alter the rules governing the making of any calculation under subsection (2) or (3) above (whether by deleting or amending subsections (5) to (9) above, or any of them, or by adding other provisions, or by a combination of those methods).

(11) Calculations to be made in relation to a particular financial year under this section must be made before 11th March in the preceding financial year, but they are not invalid merely because they are made on or after that date.

(12) This section is subject to section 52ZS below (which requires a direction to a billing authority that the referendum provisions in Chapter 4ZA are not to apply to the authority for a financial year to state the amount of the authority's council tax requirement for the year).

(13) In this section "BID Revenue Account" has the same meaning as in Part 4 of the Local Government Act 2003.

31B Calculation of basic amount of tax by authorities in England

(1) In relation to each financial year a billing authority in England must calculate the basic amount of its council tax by applying the formula—

$$\frac{R}{T}$$

where—

R is the amount calculated (or last calculated) by the authority under section 31A(4) above as its council tax requirement for the year;

T is the amount which is calculated by the authority as its council tax base for the year and, where one or more major precepting authorities have power to issue precepts to it, is notified by it to those authorities ("the major precepting authorities concerned") within the prescribed period.

(2) Where the aggregate calculated (or last calculated) by the authority for the year under subsection (2) of section 31A above does not exceed that so calculated under subsection (3) of that section, the amount for item R in subsection (1) above is to be nil.

(3) The Secretary of State must make regulations containing rules for making for any year the calculation required by item T in subsection (1) above; and a billing authority must make the calculation for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.

(4) Regulations prescribing a period for the purposes of item T in subsection (1) above may provide that, in any case where a billing authority fails to notify its calculation to the major precepting authorities concerned within that period, that item must be determined in the prescribed manner by such authority or authorities as may be prescribed.

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(5) The Secretary of State may by regulations do either or both of the following—

(a) alter the constituents of any calculation to be made under subsection (1) above (whether by adding, deleting or amending items);

(b) provide for rules governing the making of any calculation under that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods).”

Commencement Information

I28 S. 74 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

75 Council tax calculations by major precepting authorities in England

Before section 43 of the Local Government Finance Act 1992 insert—

“42A Calculation of council tax requirement by authorities in England

(1) In relation to each financial year a major precepting authority in England must make the calculations required by this section.

(2) The authority must calculate the aggregate of—

(a) the expenditure the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year in accordance with proper practices,

(b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices,

(c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure, and

(d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.

(3) The authority must calculate the aggregate of—

(a) the income which it estimates will accrue to it in the year and which it will credit to a revenue account for the year in accordance with proper practices, other than income which it estimates will accrue to it in respect of any precept issued by it, and

(b) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a) and (b) of subsection (2) above.

(4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its council tax requirement for the year.

(5) In making the calculation under subsection (2) above the authority must ignore payments which must be met from a trust fund.

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(6) In estimating under subsection (2)(a) above an authority must take into account—

(a) the amount of any expenditure which it estimates it will incur in the year in making any repayments of grants or other sums paid to it by the Secretary of State, and

(b) in the case of an authority which is a county council, the amount of any levy issued to it for the year.

(7) But (except as provided by regulations under section 74 of the 1988 Act) the authority must not anticipate a levy not issued.

(8) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is—

(a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year in accordance with proper practices and will have to defray in the year before the following sums are sufficiently available—

(i) sums which will be payable to it for the year, and

(ii) sums in respect of which amounts will be credited to a revenue account for the year in accordance with proper practices, and

(b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year in accordance with proper practices.

(9) In making the calculation under subsection (3) above the authority must ignore payments which must be made into a trust fund.

(10) In estimating under subsection (3)(a) above the authority must take into account the sums which the authority estimates will be paid to it in the year by billing authorities in accordance with regulations under section 99(3) of the 1988 Act.

(11) The Secretary of State may by regulations do one or both of the following—

(a) alter the constituents of any calculation to be made under subsection (2) or (3) above (whether by adding, deleting or amending items);

(b) alter the rules governing the making of any calculation under subsection (2) or (3) above (whether by deleting or amending subsections (5) to (10) above, or any of them, or by adding other provisions, or by a combination of those methods).

(12) This section is subject to section 52ZT below (which requires a direction to a major precepting authority that the referendum provisions in Chapter 4ZA are not to apply to the authority for a financial year to state the amount of the authority's council tax requirement for the year).

42B Calculation of basic amount of tax by authorities in England

(1) In relation to each financial year a major precepting authority in England must calculate the basic amount of its council tax by applying the formula—

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

$$\frac{R}{T}$$

where—

R is the amount calculated (or last calculated) by the authority under section 42A(4) above as its council tax requirement for the year;

T is the aggregate of the amounts which are calculated by the billing authorities to which the authority issues precepts ("the billing authorities concerned") as their council tax bases for the year for their areas, or (as the case may require) for the parts of their areas falling within the authority's area, and are notified by them to the authority within the prescribed period.

(2) Where the aggregate calculated (or last calculated) by the authority for the year under subsection (2) of section 42A above does not exceed that so calculated under subsection (3) of that section, the amount for item R in subsection (1) above is to be nil.

(3) The Secretary of State must make regulations containing rules for making for any year the calculation required by item T in subsection (1) above; and the billing authorities concerned must make the calculations for any year in accordance with the rules for the time being effective (as regards the year) under the regulations.

(4) Regulations prescribing a period for the purposes of item T in subsection (1) above may provide that, in any case where a billing authority fails to notify its calculation to the precepting authority concerned within that period, that item must be determined in the prescribed manner by such authority or authorities as may be prescribed.

(5) The Secretary of State may by regulations do either or both of the following—
   (a) alter the constituents of any calculation to be made under subsection (1) above (whether by adding, deleting or amending items);
   (b) provide for rules governing the making of any calculation under that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods)."

Commencement Information
I29 S. 75 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

76 Calculation of council tax requirement by the Greater London Authority

(1) Section 85 of the Greater London Authority Act 1999 (calculation of component and consolidated budget requirements) is amended as follows.

(2) In the section heading for "budget" substitute " council tax ".

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(3) In subsection (1) for "43" substitute " 42A ".

(4) In subsection (4)—

(a) in paragraph (a) for the words from ", other than" to "the 1988 Act" substitute " in accordance with proper practices ", and

(b) in paragraph (b)—

(i) for "expenditure to be charged" substitute " amounts to be charged or credited ", and

(ii) after "for the year" insert " in accordance with proper practices ".

(5) In subsection (5) for paragraph (a) substitute—

"(a) the income which the Authority estimates will accrue to or for the body in the year and which will be credited to a revenue account for the year in accordance with proper practices, other than income which the Authority estimates will accrue in respect of any precept issued by it;".

(6) In subsection (6)(b) for "budget" substitute " council tax ".

(7) In subsection (7) for "budget" substitute " council tax ".

(8) In subsection (8) for "budget" in both places substitute " council tax ".

(9) Omit subsection (9).

(10) Section 86 of that Act (provisions supplemental to section 85) is amended as follows.

(11) After subsection (1) insert—

"(1A) In making any calculation under subsection (4) of section 85 above the Authority shall ignore payments which must be met from a trust fund.

(1B) In estimating under subsection (4)(a) of section 85 above—

(a) in the case of any functional body, the Authority shall take into account the amount of any expenditure which it estimates will be incurred in the year in respect of the body under section 43(1) of the Local Government Act 2003 or in paying any BID levy for which the body is liable, and

(b) in the case of the Mayor, the Authority shall take into account the amount of any expenditure which it estimates will be incurred in the year in respect of the Authority under section 43(1) of the Local Government Act 2003 or in paying any BID levy for which the Authority is liable."

(12) After subsection (2A) insert—

"(2B) In estimating under subsection (4)(a) of section 85 above in the case of the Mayor, the Authority shall take into account the amount of any expenditure which the Authority estimates it will incur in the year in pursuance of regulations under section 99(3) of the Local Government Finance Act 1988."

(13) After subsection (4) insert—

"(4A) In making any calculation under subsection (5) of section 85 above, the Authority must ignore payments which must be made into a trust fund.

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(4B) In estimating under subsection (5)(a) of section 85 above in the case of the Mayor, the Authority shall take into account—

(a) the amounts which the Authority estimates will be paid to it in the year by billing authorities in accordance with regulations under section 99(3) of the Local Government Finance Act 1988, and

(b) the amount of any expenditure which it estimates will be incurred in the year by the Authority in making any repayments of grants or other sums paid to the Authority by the Secretary of State.

(4C) In estimating under subsection (5)(a) of section 85 above in the case of a functional body, the Authority shall take into account the amount of any expenditure which it estimates will be incurred in the year in making by or in respect of the body any repayments of grants or other sums paid to or for the body by the Secretary of State.

(4D) In estimating under subsection (5)(a) of section 85 above in the case of the Mayor's Office for Policing and Crime, the Authority must use such amounts as may be prescribed by the Secretary of State as the sums that are payable to the Mayor's Office for Policing and Crime in respect of the following items—

(a) redistributed non-domestic rates,

(b) revenue support grant,

(c) general GLA grant, and

(d) additional grant.

(4E) In subsection (4D) above, "prescribed" means specified in, or determined in accordance with, either—

(a) the appropriate report or determination, or

(b) regulations made by the Secretary of State,

as the Secretary of State may determine in the case of any particular item and any particular financial year or years.

(4F) In subsection (4E) above, "the appropriate report or determination" means—

(a) in the case of an item specified in paragraph (a) or (b) of subsection (4D) above, the local government finance report for the financial year in question,

(b) in the case of the item specified in paragraph (c) of that subsection, the determination under section 100 below for the financial year in question, and

(c) in the case of the item specified in paragraph (d) of that subsection, the report under section 85 of the Local Government Finance Act 1988 relating to that item."

(14) In subsection (5)(b) for "(4)" substitute " (4F) ".

(15) Omit subsection (6).

Commencement Information

I30 S. 76 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)** (with art. 3(3))

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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77 Calculation of basic amount of tax by the Greater London Authority

(1) Section 88 of the Greater London Authority Act 1999 (calculation of basic amount of tax) is amended as follows.

(2) In subsection (1) for "44" substitute " 42B ".

(3) For subsection (2) substitute—

"(2) In relation to each financial year the Authority shall calculate the basic amount of its council tax by applying the formula—

$$\frac{(R-A)}{T}$$

where—

R is the amount calculated (or last calculated) by the Authority under section 85(8) above as its consolidated council tax requirement for the year;

A is the amount of the special item;

T is the aggregate of the amounts which are calculated by the billing authorities to which the Authority issues precepts ("the billing authorities concerned") as their council tax bases for the year for their areas and are notified by them to the Authority within the prescribed period."

(4) Omit subsections (3) to (5).

(5) In subsection (8) for paragraph (b) substitute—

"(b) provide for rules governing the making of any calculation under that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods)."

(6) Section 89 of that Act (additional calculations: special item for part of Greater London) is amended as follows.

(7) For subsection (4) substitute—

"(4) For dwellings in any part of Greater London to which the special item relates, the amount in respect of the special item is given by the formula—

$$\frac{S2}{TP2}$$

where—

S2 is the amount of the special item;

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TP2 is the aggregate of the amounts which are calculated by the billing authorities to which the Authority has power to issue precepts as respects the special item ("the billing authorities concerned") as their council tax bases for the year for their areas and are notified by them to the Authority within the prescribed period."

(8) Omit subsections (5) and (6).

(9) In subsection (9) for paragraph (b) substitute—

"(b) provide for rules governing the making of any calculation under or by virtue of that subsection (whether by adding provisions to, or deleting or amending provisions of, this section, or by a combination of those methods)."

Commencement Information

I31 S. 77 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

78 Council tax calculation by local precepting authorities in England

Before section 50 of the Local Government Finance Act 1992 insert—

"49A Calculation of council tax requirement by authorities in England

(1) In relation to each financial year a local precepting authority in England must make the calculations required by this section.

(2) The authority must calculate the aggregate of—

(a) the expenditure the authority estimates it will incur in the year in performing its functions and will charge to a revenue account for the year in accordance with proper practices,

(b) such allowance as the authority estimates will be appropriate for contingencies in relation to amounts to be charged or credited to a revenue account for the year in accordance with proper practices,

(c) the financial reserves which the authority estimates it will be appropriate to raise in the year for meeting its estimated future expenditure, and

(d) such financial reserves as are sufficient to meet so much of the amount estimated by the authority to be a revenue account deficit for any earlier financial year as has not already been provided for.

(3) The authority must calculate the aggregate of—

(a) the income which it estimates will accrue to it in the year and which it will credit to a revenue account for the year in accordance with proper practices, other than income which it estimates will accrue to it in respect of any precept issued by it, and

(b) the amount of the financial reserves which the authority estimates that it will use in order to provide for the items mentioned in paragraphs (a) and (b) of subsection (2) above.

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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(4) If the aggregate calculated under subsection (2) above exceeds that calculated under subsection (3) above, the authority must calculate the amount equal to the difference; and the amount so calculated is to be its council tax requirement for the year.

(5) For the purposes of subsection (2)(c) above an authority's estimated future expenditure is—

(a) that which the authority estimates it will incur in the financial year following the year in question, will charge to a revenue account for the year in accordance with proper practices and will have to defray in the year before the following sums are sufficiently available, namely, sums—

(i) which will be payable to it for the year, and

(ii) in respect of which amounts will be credited to a revenue account for the year in accordance with proper practices, and

(b) that which the authority estimates it will incur in the financial year referred to in paragraph (a) above or any subsequent financial year in performing its functions and which will be charged to a revenue account for that or any other year in accordance with proper practices.

(6) This section is subject to section 52ZV below (which requires a direction to a local precepting authority that the referendum provisions in Chapter 4ZA are not to apply to the authority for a financial year to state the amount of the authority's council tax requirement for the year).

49B Substitute calculations

(1) A local precepting authority which has made calculations in accordance with section 49A above in relation to a financial year (originally or by way of substitute) may make calculations in substitution in relation to the year in accordance with that section.

(2) None of the substitute calculations are to have any effect if the amount calculated under section 49A(4) above would exceed that so calculated in the previous calculations.

(3) Subsection (2) above does not apply if the previous calculation under subsection (4) of section 49A above has been quashed because of a failure to comply with that section in making the calculation.”

Commencement Information
I32 S. 78 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

79 Council tax: minor and consequential amendments

Schedule 7 (council tax: minor and consequential amendments) has effect.

Commencement Information
I33 S. 79 in force at 3.12.2011 by S.I. 2011/2896, **art. 2(g)**

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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80 Council tax revaluations in Wales

(1) The Local Government Finance Act 1992 is amended as follows.

(2) In section 22B(3) (new Welsh valuation lists to be prepared on earlier of tenth anniversary of compilation of previous list and 1 April in such year as may be specified by the Welsh Ministers) for the words from "the earlier" to the end substitute " 1 April in each year specified by order made by the Welsh Ministers. "

(3) In section 22B (compilation and maintenance of new valuation lists) after subsection (11) insert—

"(12) No order under subsection (3) may be made unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, the National Assembly for Wales."

(4) In section 113(1) and (2) (orders and regulations may make differential and incidental etc provision) for "National Assembly for Wales" substitute " Welsh Ministers ".

(5) In section 113(2) for ", they or it thinks" substitute " or they think ".

(6) In section 113(4) (power of National Assembly for Wales to make orders or regulations is exercisable by statutory instrument) for "National Assembly for Wales" substitute " Welsh Ministers ".

CHAPTER 2

COMMUNITY RIGHT TO CHALLENGE

81 Duty to consider expression of interest

(1) A relevant authority must consider an expression of interest in accordance with this Chapter if—

(a) it is submitted to the authority by a relevant body, and

(b) it is made in writing and complies with such other requirements for expressions of interest as the Secretary of State may specify by regulations.

This is subject to section 82 (timing of expressions of interest).

(2) In this Chapter "relevant authority" means—

(a) a county council in England,

(b) a district council,

(c) a London borough council, or

(d) such other person or body carrying on functions of a public nature as the Secretary of State may specify by regulations.

(3) The persons or bodies who may be specified by regulations under subsection (2)(d) include a Minister of the Crown or a government department.

(4) In this Chapter "expression of interest", in relation to a relevant authority, means an expression of interest in providing or assisting in providing a relevant service on behalf of the authority.

(5) In this Chapter "relevant service", in relation to a relevant authority, means a service provided by or on behalf of that authority in the exercise of any of its functions in

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relation to England, other than a service of a kind specified in regulations made by the Secretary of State.

(6) In this Chapter "relevant body" means—
- (a) a voluntary or community body,
- (b) a body of persons or a trust which is established for charitable purposes only,
- (c) a parish council,
- (d) in relation to a relevant authority, two or more employees of that authority, or
- (e) such other person or body as may be specified by the Secretary of State by regulations.

(7) For the purposes of subsection (6) "voluntary body" means a body, other than a public or local authority, the activities of which are not carried on for profit.

(8) The fact that a body's activities generate a surplus does not prevent it from being a voluntary body for the purposes of subsection (6) so long as that surplus is used for the purposes of those activities or invested in the community.

(9) For the purposes of subsection (6) "community body" means a body, other than a public or local authority, that carries on activities primarily for the benefit of the community.

(10) The Secretary of State may by regulations—
- (a) amend or repeal any of paragraphs (a) to (d) of subsection (6);
- (b) amend or repeal any of subsections (7) to (9);
- (c) make other amendments to this Chapter (including amendments to any power to make regulations) in consequence of provision made under subsection (2)(d) or (6)(e) or paragraph (a) or (b) of this subsection.

Commencement Information

I34 S. 81 in force for specified purposes at Royal Assent see s. 240(5)(d)

VALID FROM 27/06/2012

82 Timing of expressions of interest

(1) Subject as follows, a relevant body may submit an expression of interest to a relevant authority at any time.

(2) A relevant authority may specify periods during which expressions of interest, or expressions of interest in respect of a particular relevant service, may be submitted to the authority.

(3) The relevant authority must publish details of each specification under subsection (2) in such manner as it thinks fit (which must include publication on the authority's website).

(4) The relevant authority may refuse to consider an expression of interest submitted outside a period specified under subsection (2).

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83 Consideration of expression of interest

(1) The relevant authority must—
  (a) accept the expression of interest, or
  (b) reject the expression of interest.

This is subject to section 84(1) (modification of expression of interest).

(2) If the relevant authority accepts the expression of interest it must carry out a procurement exercise relating to the provision on behalf of the authority of the relevant service to which the expression of interest relates.

(3) The exercise required by subsection (2) must be such as is appropriate having regard to the value and nature of the contract that may be awarded as a result of the exercise.

(4) A relevant authority must specify—
  (a) the minimum period that will elapse between—
    (i) the date of the relevant authority's decision to accept an expression of interest, and
    (ii) the date on which it will begin the procurement exercise required by subsection (2) as a result of that acceptance, and
  (b) the maximum period that will elapse between those dates.

(5) The relevant authority may specify different periods for different cases.

(6) The relevant authority must publish details of a specification under subsection (4) in such manner as it thinks fit (which must include publication on the authority's website).

(7) The relevant authority must comply with a specification under subsection (4).

(8) A relevant authority must, in considering an expression of interest, consider whether acceptance of the expression of interest would promote or improve the social, economic or environmental well-being of the authority's area.

(9) A relevant authority must, in carrying out the exercise referred to in subsection (2), consider how it might promote or improve the social, economic or environmental well-being of the authority's area by means of that exercise.

(10) Subsection (9) applies only so far as is consistent with the law applying to the awarding of contracts for the provision on behalf of the authority of the relevant service in question.

(11) The relevant authority may reject the expression of interest only on one or more grounds specified by the Secretary of State by regulations.

Commencement Information

I35 S. 83 in force for specified purposes at Royal Assent see s. 240(5)(d)

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VALID FROM 27/06/2012

84 Consideration of expression of interest: further provisions

(1) A relevant authority that is considering an expression of interest from a relevant body may modify the expression of interest.

(2) A relevant authority may exercise the power in subsection (1) only if—
- (a) the authority thinks that the expression of interest would not otherwise be capable of acceptance, and
- (b) the relevant body agrees to the modification.

(3) A relevant authority must specify the maximum period that will elapse between—
- (a) the date on which it receives an expression of interest submitted by a relevant body, and
- (b) the date on which it notifies the relevant body of its decision in respect of the expression of interest.

(4) The relevant authority may specify different periods for different cases.

(5) The relevant authority must publish details of a specification under subsection (3) in such manner as it thinks fit (which must include publication on the authority's website).

(6) A relevant authority that receives an expression of interest from a relevant body in accordance with this Chapter must notify the relevant body in writing of the period within which it expects to notify the relevant body of its decision in respect of the expression of interest.

(7) The relevant authority must give the notification under subsection (6) —
- (a) where the expression of interest is one to which a specification under section 82(2) relates and is made within a period so specified, within the period of 30 days beginning immediately after the end of the period so specified, or
- (b) otherwise, within the period of 30 days beginning with the day on which the relevant authority receives the expression of interest.

(8) The relevant authority must—
- (a) notify the relevant body in writing of its decision in respect of the expression of interest within the period specified by it under subsection (3), and
- (b) if the authority's decision is to modify or reject the expression of interest, give reasons for that decision in the notification.

(9) The relevant authority must publish the notification in such manner as it thinks fit (which must include publication on the authority's website).

(10) A relevant body may withdraw an expression of interest after submitting it to a relevant authority (whether before or after a decision has been made by the authority in respect of the expression of interest).

(11) The withdrawal of an expression of interest, or the refusal of a relevant body to agree to modification of an expression of interest, does not prevent the relevant authority

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from proceeding as described in section 83(2) if the relevant authority thinks that it is appropriate to do so.

85 Supplementary

(1) The Secretary of State may by regulations make further provision about the consideration by a relevant authority of an expression of interest submitted by a relevant body.

(2) A relevant authority must, in exercising its functions under or by virtue of this Chapter, have regard to guidance issued by the Secretary of State.

Commencement Information

I36 S. 85 in force for specified purposes at Royal Assent see s. 240(5)(d)

86 Provision of advice and assistance

(1) The Secretary of State may do anything that the Secretary of State considers appropriate for the purpose of giving advice or assistance to a relevant body in relation to—
  (a) the preparation of an expression of interest for submission to a relevant authority and its submission to a relevant authority,
  (b) participation in a procurement exercise carried out by a relevant authority in response to an expression of interest, or
  (c) the provision of a relevant service on behalf of a relevant authority following such a procurement exercise.

(2) The Secretary of State may do anything that the Secretary of State considers appropriate for the purpose of giving advice or assistance about the operation of this Chapter to a body or person other than a relevant body.

(3) The things that the Secretary of State may do under this section include, in particular—
  (a) the provision of financial assistance to a relevant body;
  (b) the making of arrangements with a body or person (whether or not a relevant body), including arrangements for things that may be done by the Secretary of State under this section to be done by that body or person;
  (c) the provision of financial assistance to a body or person other than a relevant body in connection with arrangements under paragraph (b).

(4) In this section references to a relevant body include a body that the Secretary of State considers was formed wholly or partly by employees or former employees of the relevant authority for the purposes of, or for purposes including—
  (a) participating in a procurement exercise carried out by the authority, or
  (b) providing a relevant service on the authority's behalf.

(5) In this section—
  (a) the reference to giving advice or assistance includes providing training or education, and

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(b) any reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity).

CHAPTER 3

ASSETS OF COMMUNITY VALUE

List of assets of community value

87 List of assets of community value

(1) A local authority must maintain a list of land in its area that is land of community value.

(2) The list maintained under subsection (1) by a local authority is to be known as its list of assets of community value.

(3) Where land is included in a local authority's list of assets of community value, the entry for that land is to be removed from the list with effect from the end of the period of 5 years beginning with the date of that entry (unless the entry has been removed with effect from some earlier time in accordance with provision in regulations under subsection (5)).

(4) The appropriate authority may by order amend subsection (3) for the purpose of substituting, for the period specified in that subsection for the time being, some other period.

(5) The appropriate authority may by regulations make further provision in relation to a local authority's list of assets of community value, including (in particular) provision about—

(a) the form in which the list is to be kept;

(b) contents of an entry in the list (including matters not to be included in an entry);

(c) modification of an entry in the list;

(d) removal of an entry from the list;

(e) cases where land is to be included in the list and—

(i) different parts of the land are in different ownership or occupation, or

(ii) there are multiple estates or interests in the land or any part or parts of it;

(f) combination of the list with the local authority's list of land nominated by unsuccessful community nominations.

(6) Subject to any provision made by or under this Chapter, it is for a local authority to decide the form and contents of its list of assets of community value.

Commencement Information

I37 S. 87 in force for specified purposes at Royal Assent see s. 240(5)(f)

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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88 Land of community value

(1) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area is land of community value if in the opinion of the authority—

(a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and

(b) it is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social wellbeing or social interests of the local community.

(2) For the purposes of this Chapter but subject to regulations under subsection (3), a building or other land in a local authority's area that is not land of community value as a result of subsection (1) is land of community value if in the opinion of the local authority—

(a) there is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social wellbeing or interests of the local community, and

(b) it is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social wellbeing or social interests of the local community.

(3) The appropriate authority may by regulations—

(a) provide that a building or other land is not land of community value if the building or other land is specified in the regulations or is of a description specified in the regulations;

(b) provide that a building or other land in a local authority's area is not land of community value if the local authority or some other person specified in the regulations considers that the building or other land is of a description specified in the regulations.

(4) A description specified under subsection (3) may be framed by reference to such matters as the appropriate authority considers appropriate.

(5) In relation to any land, those matters include (in particular)—

(a) the owner of any estate or interest in any of the land or in other land;

(b) any occupier of any of the land or of other land;

(c) the nature of any estate or interest in any of the land or in other land;

(d) any use to which any of the land or other land has been, is being or could be put;

(e) statutory provisions, or things done under statutory provisions, that have effect (or do not have effect) in relation to—

(i) any of the land or other land, or

(ii) any of the matters within paragraphs (a) to (d);

(f) any price, or value for any purpose, of any of the land or other land.

(6) In this section—

"legislation" means—

(a) an Act, or

(b) a Measure or Act of the National Assembly for Wales;

"social interests" includes (in particular) each of the following—

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(a) cultural interests;
(b) recreational interests;
(c) sporting interests;

"statutory provision" means a provision of—
(a) legislation, or
(b) an instrument made under legislation.

Commencement Information
I38 S. 88 in force for specified purposes at Royal Assent see s. 240(5)(f)

89 Procedure for including land in list

(1) Land in a local authority's area which is of community value may be included by a local authority in its list of assets of community value only—
  (a) in response to a community nomination, or
  (b) where permitted by regulations made by the appropriate authority.

(2) For the purposes of this Chapter "community nomination", in relation to a local authority, means a nomination which—
  (a) nominates land in the local authority's area for inclusion in the local authority's list of assets of community value, and
  (b) is made—
    (i) by a parish council in respect of land in England in the parish council's area,
    (ii) by a community council in respect of land in Wales in the community council's area, or
    (iii) by a person that is a voluntary or community body with a local connection.

(3) Regulations under subsection (1)(b) may (in particular) permit land to be included in a local authority's list of assets of community value in response to a nomination other than a community nomination.

(4) The appropriate authority may by regulations make provision as to—
  (a) the meaning in subsection (2)(b)(iii) of "voluntary or community body";
  (b) the conditions that have to be met for a person to have a local connection for the purposes of subsection (2)(b)(iii);
  (c) the contents of community nominations;
  (d) the contents of any other nominations which, as a result of regulations under subsection (1)(b), may give rise to land being included in a local authority's list of assets of community value.

(5) The appropriate authority may by regulations make provision for, or in connection with, the procedure to be followed where a local authority is considering whether land should be included in its list of assets of community value.

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Commencement Information

I39 S. 89 in force for specified purposes at Royal Assent see s. 240(5)(f)

VALID FROM 21/09/2012

90 Procedure on community nominations

(1) This section applies if a local authority receives a community nomination.

(2) The authority must consider the nomination.

(3) The authority must accept the nomination if the land nominated—
- (a) is in the authority's area, and
- (b) is of community value.

(4) If the authority is required by subsection (3) to accept the nomination, the authority must cause the land to be included in the authority's list of assets of community value.

(5) The nomination is unsuccessful if subsection (3) does not require the authority to accept the nomination.

(6) If the nomination is unsuccessful, the authority must give, to the person who made the nomination, the authority's written reasons for its decision that the land could not be included in its list of assets of community value.

91 Notice of inclusion or removal

(1) Subsection (2) applies where land—
- (a) is included in, or
- (b) removed from,

a local authority's list of assets of community value.

(2) The authority must give written notice of the inclusion or removal to the following persons—
- (a) the owner of the land,
- (b) the occupier of the land if the occupier is not also the owner,
- (c) if the land was included in the list in response to a community nomination, the person who made the nomination, and
- (d) any person specified, or of a description specified, in regulations made by the appropriate authority,

but where it appears to the authority that it is not reasonably practicable to give a notice under this subsection to a person to whom it is required to be given, the authority must instead take reasonable alternative steps for the purpose of bringing the notice to the person's attention.

(3) A notice under subsection (2) of inclusion of land in the list must describe the provision made by and under this Chapter, drawing particular attention to—
- (a) the consequences for the land and its owner of the land's inclusion in the list, and

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(b) the right to ask for review under section 92.

(4) A notice under subsection (2) of removal of land from the list must state the reasons for the removal.

Commencement Information
I40 S. 91 in force for specified purposes at Royal Assent see s. 240(5)(f)

92 Review of decision to include land in list

(1) The owner of land included in a local authority's list of assets of community value may ask the authority to review the authority's decision to include the land in the list.

(2) If a request is made—
(a) under subsection (1), and
(b) in accordance with the time limits (if any) provided for in regulations under subsection (5),
the authority concerned must review its decision.

(3) Where under subsection (2) an authority reviews a decision, the authority must notify the person who asked for the review—
(a) of the decision on the review, and
(b) of the reasons for the decision.

(4) If the decision on a review under subsection (2) is that the land concerned should not have been included in the authority's list of assets of community value—
(a) the authority must remove the entry for the land from the list, and
(b) where the land was included in the list in response to a community nomination—
(i) the nomination becomes unsuccessful, and
(ii) the authority must give a written copy of the reasons mentioned in subsection (3)(b) to the person who made the nomination.

(5) The appropriate authority may by regulations make provision as to the procedure to be followed in connection with a review under this section.

(6) Regulations under subsection (5) may (in particular) include—
(a) provision as to time limits;
(b) provision requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision;
(c) provision as to the circumstances in which the person asking for the review is entitled to an oral hearing, and whether and by whom that person may be represented at the hearing;
(d) provision for appeals against the decision on the review.

Commencement Information
I41 S. 92 in force for specified purposes at Royal Assent see s. 240(5)(f)

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 21/09/2012

List of land nominated by unsuccessful community nominations

93 List of land nominated by unsuccessful community nominations

(1) A local authority must maintain a list of land in its area that has been nominated by an unsuccessful community nomination (see sections 90(5) and 92(4)(b)(i)).

(2) The list maintained under subsection (1) by a local authority is to be known as its list of land nominated by unsuccessful community nominations.

(3) Where land is included in a local authority's list of land nominated by unsuccessful community nominations, the entry in the list for the land—
  (a) may (but need not) be removed from the list by the authority after it has been in the list for 5 years, and
  (b) while it is in the list, is to include the reasons given under section 90(6) or 92(3)(b) for not including the land in the authority's list of assets of community value.

(4) Subject to any provision made by or under this Chapter, it is for a local authority to decide the form and contents of its list of land nominated by unsuccessful community nominations.

VALID FROM 21/09/2012

Provisions common to both lists

94 Publication and inspection of lists

(1) A local authority must publish—
  (a) its list of assets of community value, and
  (b) its list of land nominated by unsuccessful community nominations.

(2) A local authority must at a place in its area make available, for free inspection by any person, both—
  (a) a copy of its list of assets of community value, and
  (b) a copy of its list of land nominated by unsuccessful community nominations.

(3) A local authority must provide a free copy of its list of assets of community value to any person who asks it for a copy, but is not required to provide to any particular person more than one free copy of the same version of the list.

(4) A local authority must provide a free copy of its list of land nominated by unsuccessful community nominations to any person who asks it for a copy, but is not required to provide to any particular person more than one free copy of the same version of the list.

(5) In this section “free” means free of charge.

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Moratorium on disposing of listed land

95 Moratorium

(1) A person who is an owner of land included in a local authority's list of assets of community value must not enter into a relevant disposal of the land unless each of conditions A to C is met.

(2) Condition A is that that particular person has notified the local authority in writing of that person's wish to enter into a relevant disposal of the land.

(3) Condition B is that either—

(a) the interim moratorium period has ended without the local authority having received during that period, from any community interest group, a written request (however expressed) for the group to be treated as a potential bidder in relation to the land, or

(b) the full moratorium period has ended.

(4) Condition C is that the protected period has not ended.

(5) Subsection (1) does not apply in relation to a relevant disposal of land—

(a) if the disposal is by way of gift (including a gift to trustees of any trusts by way of settlement upon the trusts),

(b) if the disposal is by personal representatives of a deceased person in satisfaction of an entitlement under the will, or on the intestacy, of the deceased person,

(c) if the disposal is by personal representatives of a deceased person in order to raise money to—

(i) pay debts of the deceased person,

(ii) pay taxes,

(iii) pay costs of administering the deceased person's estate, or

(iv) pay pecuniary legacies or satisfy some other entitlement under the will, or on the intestacy, of the deceased person,

(d) if the person, or one of the persons, making the disposal is a member of the family of the person, or one of the persons, to whom the disposal is made,

(e) if the disposal is a part-listed disposal of a description specified in regulations made by the appropriate authority, and for this purpose "part-listed disposal" means a disposal of an estate in land—

(i) part of which is land included in a local authority's list of assets of community value, and

(ii) part of which is land not included in any local authority's list of assets of community value,

(f) if the disposal is of an estate in land on which a business is carried on and is at the same time, and to the same person, as a disposal of that business as a going concern,

(g) if the disposal is occasioned by a person ceasing to be, or becoming, a trustee,

(h) if the disposal is by trustees of any trusts—

(i) in satisfaction of an entitlement under the trusts, or

(ii) in exercise of a power conferred by the trusts to re-settle trust property on other trusts,

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(i) if the disposal is occasioned by a person ceasing to be, or becoming, a partner in a partnership, or

(j) in cases of a description specified in regulations made by the appropriate authority.

(6) In subsections (3) and (4)—

"community interest group" means a person specified, or of a description specified, in regulations made by the appropriate authority,

"the full moratorium period", in relation to a relevant disposal, means the six months beginning with the date on which the local authority receives notification under subsection (2) in relation to the disposal,

"the interim moratorium period", in relation to a relevant disposal, means the six weeks beginning with the date on which the local authority receives notification under subsection (2) in relation to the disposal, and

"the protected period", in relation to a relevant disposal, means the eighteen months beginning with the date on which the local authority receives notification under subsection (2) in relation to the disposal.

(7) For the purposes of subsection (5)(d), a person ("M") is a member of the family of another person if M is—

(a) that other person's spouse or civil partner, or

(b) a lineal descendant of a grandparent of that other person.

(8) For the purposes of subsection (7)(b) a relationship by marriage or civil partnership is to be treated as a relationship by blood.

(9) For the meaning of "relevant disposal", and for when a relevant disposal is entered into, see section 96.

Commencement Information

I42 S. 95 in force for specified purposes at Royal Assent see s. 240(5)(f)

96 Meaning of "relevant disposal" etc in section 95

(1) This section applies for the purposes of section 95.

(2) A disposal of the freehold estate in land is a relevant disposal of the land if it is a disposal with vacant possession.

(3) A grant or assignment of a qualifying leasehold estate in land is a relevant disposal of the land if it is a grant or assignment with vacant possession.

(4) If a relevant disposal within subsection (2) or (3) is made in pursuance of a binding agreement to make it, the disposal is entered into when the agreement becomes binding.

(5) Subject to subsection (4), a relevant disposal within subsection (2) or (3) is entered into when it takes place.

(6) In this section "qualifying leasehold estate", in relation to any land, means an estate by virtue of a lease of the land for a term which, when granted, had at least 25 years to run.

(7) The appropriate authority may by order amend this section.

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Commencement Information

I43 S. 96 in force for specified purposes at Royal Assent see s. 240(5)(f)

VALID FROM 21/09/2012

97 Publicising receipt of notice under section 95(2)

(1) This section applies if a local authority receives notice under section 95(2) in respect of land included in the authority's list of assets of community value.

(2) The authority must cause the entry in the list for the land to reveal—

(a) that notice under section 95(2) has been received in respect of the land,

(b) the date when the authority received the notice, and

(c) the ends of the initial moratorium period, the full moratorium period and the protected period that apply under section 95 as a result of the notice.

(3) If the land is included in the list in response to a community nomination, the authority must give written notice, to the person who made the nomination, of the matters mentioned in subsection (2)(a), (b) and (c).

(4) The authority must make arrangements for those matters to be publicised in the area where the land is situated.

VALID FROM 21/09/2012

98 Informing owner of request to be treated as bidder

(1) Subsection (2) applies if—

(a) after a local authority has received notice under section 95(2) in respect of land included in the authority's list of assets of community value, and

(b) before the end of the interim moratorium period that applies under section 95 as a result of the notice,

the authority receives from a community interest group a written request (however expressed) for the group to be treated as a potential bidder in relation to the land.

(2) The authority must, as soon after receiving the request as is practicable, either pass on the request to the owner of the land or inform the owner of the details of the request.

(3) In this section "community interest group" means a person who is a community interest group for the purposes of section 95(3) as a result of regulations made under section 95(6) by the appropriate authority.

99 Compensation

(1) The appropriate authority may by regulations make provision for the payment of compensation in connection with the operation of this Chapter.

(2) Regulations under subsection (1) may (in particular)—

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(a) provide for any entitlement conferred by the regulations to apply only in cases specified in the regulations;
(b) provide for any entitlement conferred by the regulations to be subject to conditions, including conditions as to time limits;
(c) make provision about—
(i) who is to pay compensation payable under the regulations;
(ii) who is to be entitled to compensation under the regulations;
(iii) what compensation under the regulations is to be paid in respect of;
(iv) the amount, or calculation, of compensation under the regulations;
(v) the procedure to be followed in connection with claiming compensation under the regulations;
(vi) the review of decisions made under the regulations;
(vii) appeals against decisions made under the regulations.

Commencement Information
I44 S. 99 in force for specified purposes at Royal Assent see s. 240(5)(f)

Miscellaneous

VALID FROM 21/09/2012

100 Local land charge

If land is included in a local authority's list of assets of community value—
(a) inclusion in the list is a local land charge, and
(b) that authority is the originating authority for the purposes of the Local Land Charges Act 1975.

101 Enforcement

(1) The appropriate authority may by regulations make provision—
(a) with a view to preventing, or reducing the likelihood of, contraventions of section 95(1);
(b) as to the consequences applicable in the event of contraventions of section 95(1).

(2) The provision that may be made under subsection (1) includes (in particular)—
(a) provision for transactions entered into in breach of section 95(1) to be set aside or to be ineffective;
(b) provision about entries on registers relating to land.

(3) The provision that may be made under subsection (1) includes provision amending—
(a) legislation, or
(b) an instrument made under legislation.

(4) In subsection (3) “legislation” means—

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(a) an Act, or
(b) a Measure or Act of the National Assembly for Wales.

Commencement Information
I45 S. 101 in force for specified purposes at Royal Assent see s. 240(5)(f)

VALID FROM 21/09/2012

102 Co-operation

If different parts of any land are in different local authority areas, the local authorities concerned must co-operate with each other in carrying out functions under this Chapter in relation to the land or any part of it.

103 Advice and assistance in relation to land of community value in England

(1) The Secretary of State may do anything that the Secretary of State considers appropriate for the purpose of giving advice or assistance—
(a) to anyone in relation to doing any of the following—
(i) taking steps under or for purposes of provision contained in, or made under, this Chapter so far as applying in relation to England, or
(ii) preparing to, or considering or deciding whether to, take steps within sub-paragraph (i), or
(b) to a community interest group in relation to doing any of the following—
(i) bidding for, or acquiring, land in England that is included in a local authority's list of assets of community value,
(ii) preparing to, or considering or deciding whether or how to, bid for or acquire land within sub-paragraph (i), or
(iii) preparing to, or considering or deciding whether or how to, bring land within sub-paragraph (i) into effective use.

(2) The things that the Secretary of State may do under this section include, in particular—
(a) the provision of financial assistance to any body or other person;
(b) the making of arrangements with a body or other person, including arrangements for things that may be done by the Secretary of State under this section to be done by that body or other person.

(3) In this section—
(a) the reference to giving advice or assistance includes providing training or education,
(b) "community interest group" means a person who is a community interest group for the purposes of section 95(3) as a result of regulations made under section 95(6) by the Secretary of State, and
(c) the reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity).

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104 Advice and assistance in relation to land of community value in Wales

(1) The Welsh Ministers may do anything that they consider appropriate for the purpose of giving advice or assistance—

(a) to anyone in relation to doing any of the following—

(i) taking steps under or for purposes of provision contained in, or made under, this Chapter so far as applying in relation to Wales, or

(ii) preparing to, or considering or deciding whether to, take steps within sub-paragraph (i), or

(b) to a community interest group in relation to doing any of the following—

(i) bidding for, or acquiring, land in Wales that is included in a local authority's list of assets of community value,

(ii) preparing to, or considering or deciding whether or how to, bid for or acquire land within sub-paragraph (i), or

(iii) preparing to, or considering or deciding whether or how to, bring land within sub-paragraph (i) into effective use.

(2) The things that the Welsh Ministers may do under this section include, in particular—

(a) the provision of financial assistance to any body or other person;

(b) the making of arrangements with a body or other person, including arrangements for things that may be done by the Welsh Ministers under this section to be done by that body or other person.

(3) In this section—

(a) the reference to giving advice or assistance includes providing training or education,

(b) "community interest group" means a person who is a community interest group for the purposes of section 95(3) as a result of regulations made under section 95(6) by the Welsh Ministers, and

(c) the reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity).

VALID FROM 21/09/2012

105 Crown application

This Chapter binds the Crown.

Interpretation of Chapter

106 Meaning of "local authority"

(1) In this Chapter "local authority" in relation to England means—

(a) a district council,

(b) a county council for an area in England for which there are no district councils,

(c) a London borough council,

(d) the Common Council of the City of London, or

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(e) the Council of the Isles of Scilly.

(2) The Secretary of State may by order amend this section for the purpose of changing the meaning in this Chapter of "local authority" in relation to England.

(3) In this Chapter "local authority" in relation to Wales means—
(a) a county council in Wales, or
(b) a county borough council.

(4) The Welsh Ministers may by order amend this section for the purpose of changing the meaning in this Chapter of "local authority" in relation to Wales.

Commencement Information
I46 S. 106 in force for specified purposes at Royal Assent see s. 240(5)(f)

107 Meaning of "owner"

(1) In this Chapter "owner", in relation to land, is to be read as follows.

(2) The owner of any land is the person in whom the freehold estate in the land is vested, but not if there is a qualifying leasehold estate in the land.

(3) If there is just one qualifying leasehold estate in any land, the owner of the land is the person in whom that estate is vested.

(4) If there are two or more qualifying leasehold estates in the same land, the owner of the land is the person in whom is vested the qualifying leasehold estate that is more or most distant (in terms of the number of intervening leasehold estates) from the freehold estate.

(5) In this section "qualifying leasehold estate", in relation to any land, means an estate by virtue of a lease of the land for a term which, when granted, had at least 25 years to run.

(6) The appropriate authority may by order amend this section—
(a) for the purpose of changing the definition of "owner" for the time being given by this section;
(b) for the purpose of defining "owner" for the purposes of this Chapter in a case where, for the time being, this section does not define that expression.

Commencement Information
I47 S. 107 in force for specified purposes at Royal Assent see s. 240(5)(f)

108 Interpretation of Chapter: general

(1) In this Chapter—
"appropriate authority"—
(a) in relation to England means the Secretary of State, and
(b) in relation to Wales means the Welsh Ministers;
"building" includes part of a building;
"community nomination" has the meaning given by section 89(2);

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"land" includes—

(a) part of a building,

(b) part of any other structure, and

(c) mines and minerals, whether or not held with the surface;

"land of community value" is to be read in accordance with section 88;

"local authority" is to be read in accordance with section 106;

"owner", in relation to any land, is to read in accordance with section 107;

"unsuccessful", in relation to a community nomination, has the meaning given by sections 90(5) and 92(4)(b)(i).

(2) For the meaning of "list of assets of community value" see section 87(2).

(3) For the meaning of "list of land nominated by unsuccessful community nominations" see section 93(2).

Commencement Information

I48 S. 108 in force for specified purposes at Royal Assent see s. 240(5)(f)

PART 6

PLANNING

CHAPTER 1

PLANS AND STRATEGIES

109 Abolition of regional strategies

(1) The following provisions are repealed—

(a) sections 70(5), 82(1) and (2) and 83 of the Local Democracy, Economic Development and Construction Act 2009 (interpretation and effect of regional strategies), and

(b) the remaining provisions of Part 5 of that Act (regional strategy).

(2) Subsection (1)(b) does not apply to—

(a) section 85(1) (consequential provision) of that Act,

(b) Schedule 5 to that Act (regional strategy: amendments) (but see Part 16 of Schedule 25 to this Act), or

(c) Part 4 of Schedule 7 to that Act (regional strategy: repeals).

(3) The Secretary of State may by order revoke the whole or any part of a regional strategy under Part 5 of that Act.

(4) An order under subsection (3) may, in particular, revoke all of the regional strategies (or all of the remaining regional strategies) under Part 5 of that Act.

(5) The Secretary of State may by order revoke the whole or any part of a direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004

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(directions preserving development plan policies) if and so far as it relates to a policy contained in a structure plan.

(6) An order under subsection (5) may, in particular, revoke all directions (or all remaining directions) under paragraph 1(3) of that Schedule so far as they relate to policies contained in structure plans.

(7) Schedule 8 (which contains amendments that are consequential on this section) has effect.

Commencement Information

I49 S. 109 partly in force; s. 109(1)(b)(2)-(6) wholly in force and s. 109(7) in force for specified purposes at Royal Assent see s. 240(5)(h)

110 Duty to co-operate in relation to planning of sustainable development

(1) In Part 2 of the Planning and Compulsory Purchase Act 2004 (local development) after section 33 insert—

"33A Duty to co-operate in relation to planning of sustainable development

(1) Each person who is—
- (a) a local planning authority,
- (b) a county council in England that is not a local planning authority, or
- (c) a body, or other person, that is prescribed or of a prescribed description,

must co-operate with every other person who is within paragraph (a), (b) or (c) or subsection (9) in maximising the effectiveness with which activities within subsection (3) are undertaken.

(2) In particular, the duty imposed on a person by subsection (1) requires the person—
- (a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken, and
- (b) to have regard to activities of a person within subsection (9) so far as they are relevant to activities within subsection (3).

(3) The activities within this subsection are—
- (a) the preparation of development plan documents,
- (b) the preparation of other local development documents,
- (c) the preparation of marine plans under the Marine and Coastal Access Act 2009 for the English inshore region, the English offshore region or any part of either of those regions,
- (d) activities that can reasonably be considered to prepare the way for activities within any of paragraphs (a) to (c) that are, or could be, contemplated, and
- (e) activities that support activities within any of paragraphs (a) to (c),

so far as relating to a strategic matter.

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(4) For the purposes of subsection (3), each of the following is a "strategic matter"—

(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and

(b) sustainable development or use of land in a two-tier area if the development or use—

(i) is a county matter, or

(ii) has or would have a significant impact on a county matter.

(5) In subsection (4)—

"county matter" has the meaning given by paragraph 1 of Schedule 1 to the principal Act (ignoring sub-paragraph 1(1)(i)),

"planning area" means—

(a) the area of—

(i) a district council (including a metropolitan district council),

(ii) a London borough council, or

(iii) a county council in England for an area for which there is no district council,

but only so far as that area is neither in a National Park nor in the Broads,

(b) a National Park,

(c) the Broads,

(d) the English inshore region, or

(e) the English offshore region, and

"two-tier area" means an area—

(a) for which there is a county council and a district council, but

(b) which is not in a National Park.

(6) The engagement required of a person by subsection (2)(a) includes, in particular—

(a) considering whether to consult on and prepare, and enter into and publish, agreements on joint approaches to the undertaking of activities within subsection (3), and

(b) if the person is a local planning authority, considering whether to agree under section 28 to prepare joint local development documents.

(7) A person subject to the duty under subsection (1) must have regard to any guidance given by the Secretary of State about how the duty is to be complied with.

(8) A person, or description of persons, may be prescribed for the purposes of subsection (1)(c) only if the person, or persons of that description, exercise functions for the purposes of an enactment.

(9) A person is within this subsection if the person is a body, or other person, that is prescribed or of a prescribed description.

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(10) In this section—

"the English inshore region" and "the English offshore region" have the same meaning as in the Marine and Coastal Access Act 2009, and

"land" includes the waters within those regions and the bed and subsoil of those waters."

(2) In section 16 of the Planning and Compulsory Purchase Act 2004 (applying Part 2 for purposes of a county council's minerals and waste development scheme) after subsection (4) insert—

"(5) Also, subsection (3)(b) does not apply to section 33A(1)(a) and (b)."

(3) In section 20(5) of the Planning and Compulsory Purchase Act 2004 (development plan documents: purpose of independent examination) after paragraph (b) insert "; and

(c) whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation."

111 Local development schemes

(1) Section 15 of the Planning and Compulsory Purchase Act 2004 (preparation, revision and promulgation of local development schemes) is amended as follows.

(2) Omit subsection (3) (requirements as to preparation of schemes).

(3) In subsection (4) (Secretary of State or Mayor of London may direct that scheme be amended) after "thinks appropriate" insert " for the purpose of ensuring effective coverage of the authority's area by the development plan documents (taken as a whole) for that area ".

(4) In subsection (6A)(b) (provision about directions given by Mayor of London under subsection (4)) for "the scheme is not to be brought into effect" substitute " effect is not to be given to the direction ".

(5) For subsection (7) (regulations about publicity, inspection and bringing schemes into effect) substitute—

"(7) To bring the scheme into effect, the local planning authority must resolve that the scheme is to have effect and in the resolution specify the date from which the scheme is to have effect."

(6) After subsection (8A) insert—

"(8AA) A direction may be given under subsection (8)(b) only if the person giving the direction thinks that revision of the scheme is necessary for the purpose of ensuring effective coverage of the authority's area by the development plan documents (taken as a whole) for that area."

(7) After subsection (9) insert—

"(9A) The local planning authority must make the following available to the public—

(a) the up-to-date text of the scheme,

(b) a copy of any amendments made to the scheme, and

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(c) up-to-date information showing the state of the authority's compliance (or non-compliance) with the timetable mentioned in subsection (2)(f).”

112 Adoption and withdrawal of development plan documents

(1) The Planning and Compulsory Purchase Act 2004 is amended as follows.

(2) For section 20(7) (independent examiner must make recommendations with reasons) substitute—

“(7) Where the person appointed to carry out the examination—

(a) has carried it out, and

(b) considers that, in all the circumstances, it would be reasonable to conclude—

(i) that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, and

(ii) that the local planning authority complied with any duty imposed on the authority by section 33A in relation to the document's preparation,

the person must recommend that the document is adopted and give reasons for the recommendation.

(7A) Where the person appointed to carry out the examination—

(a) has carried it out, and

(b) is not required by subsection (7) to recommend that the document is adopted,

the person must recommend non-adoption of the document and give reasons for the recommendation.

(7B) Subsection (7C) applies where the person appointed to carry out the examination—

(a) does not consider that, in all the circumstances, it would be reasonable to conclude that the document satisfies the requirements mentioned in subsection (5)(a) and is sound, but

(b) does consider that, in all the circumstances, it would be reasonable to conclude that the local planning authority complied with any duty imposed on the authority by section 33A in relation to the document's preparation.

(7C) If asked to do so by the local planning authority, the person appointed to carry out the examination must recommend modifications of the document that would make it one that—

(a) satisfies the requirements mentioned in subsection (5)(a), and

(b) is sound.”

(3) For section 23(2) and (3) (adoption of development plan documents, whether as prepared or with modifications, must be in accordance with independent examiner's recommendations) substitute—

“(2) If the person appointed to carry out the independent examination of a development plan document recommends that it is adopted, the authority may adopt the document—

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(a) as it is, or
(b) with modifications that (taken together) do not materially affect the policies set out in it.

(2A) Subsection (3) applies if the person appointed to carry out the independent examination of a development plan document—
(a) recommends non-adoption, and
(b) under section 20(7C) recommends modifications ("the main modifications").

(3) The authority may adopt the document—
(a) with the main modifications, or
(b) with the main modifications and additional modifications if the additional modifications (taken together) do not materially affect the policies that would be set out in the document if it was adopted with the main modifications but no other modifications."

(4) Omit section 22(2) (development plan document not to be withdrawn once submitted for independent examination unless examiner or Secretary of State directs that it be withdrawn).

(5) In section 21 (intervention by Secretary of State) after subsection (9) insert—

"(9A) The Secretary of State may at any time—
(a) after a development plan document has been submitted for independent examination under section 20, but
(b) before it is adopted under section 23,
direct the local planning authority to withdraw the document."

(6) The amendments made by subsections (2) and (3) apply in relation to all adoptions of development plan documents that take place after the coming into force of those subsections, including an adoption where steps in relation to the document have taken place before then.

113 Local development: monitoring reports

(1) Section 35 of the Planning and Compulsory Purchase Act 2004 (local planning authority must make annual report to Secretary of State) is amended as follows.

(2) Omit subsection (1) (duty to make annual report).

(3) In subsection (2) (contents of annual report) for "The annual report must contain" substitute " Every local planning authority must prepare reports containing ".

(4) In subsection (3) (rules about annual reports) for the words from the beginning to the end of paragraph (b) substitute—

"A report under subsection (2) must—
(a) be in respect of a period—
(i) which the authority considers appropriate in the interests of transparency,
(ii) which begins with the end of the period covered by the authority's most recent report under subsection (2), and

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(iii) which is not longer than 12 months or such shorter period as is prescribed;".

(5) After subsection (3) insert—

"(4) The authority must make the authority's reports under this section available to the public."

(6) In the heading for "Annual" substitute "Authorities'" and for "report" substitute " reports ".

CHAPTER 2

COMMUNITY INFRASTRUCTURE LEVY

114 Community Infrastructure Levy: approval of charging schedules

(1) The Planning Act 2008 is amended as follows.

(2) In section 211 (amount of levy) after subsection (7) insert—

"(7A) A charging authority must use appropriate available evidence to inform the charging authority's preparation of a charging schedule.

(7B) CIL regulations may make provision about the application of subsection (7A) including, in particular—

(a) provision as to evidence that is to be taken to be appropriate,
(b) provision as to evidence that is to be taken to be not appropriate,
(c) provision as to evidence that is to be taken to be available,
(d) provision as to evidence that is to be taken to be not available,
(e) provision as to how evidence is, and as to how evidence is not, to be used,
(f) provision as to evidence that is, and as to evidence that is not, to be used,
(g) provision as to evidence that may, and as to evidence that need not, be used, and
(h) provision as to how the use of evidence is to inform the preparation of a charging schedule."

(3) For section 212(4) to (7) (draft must be accompanied by declaration of compliance with requirements, and examiner must consider the requirements and make recommendations with reasons) substitute—

"(4) In this section and sections 212A and 213 "the drafting requirements" means the requirements of this Part and CIL regulations (including the requirements to have regard to the matters listed in section 211(2) and (4)), so far as relevant to the drafting of the schedule.

(7) The examiner must consider whether the drafting requirements have been complied with and—

(a) make recommendations in accordance with section 212A, and
(b) give reasons for the recommendations."

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(4) After section 212 insert—

"**212A Charging schedule: examiner's recommendations**

(1) This section applies in relation to the examination, under section 212, of a draft charging schedule.

(2) If the examiner considers—
  (a) that there is any respect in which the drafting requirements have not been complied with, and
  (b) that the non-compliance with the drafting requirements cannot be remedied by the making of modifications to the draft,

  the examiner must recommend that the draft be rejected.

(3) Subsection (4) applies if the examiner considers—
  (a) that there is any respect in which the drafting requirements have not been complied with, and
  (b) that the non-compliance with the drafting requirements could be remedied by the making of modifications to the draft.

(4) The examiner must—
  (a) specify the respects in which the drafting requirements have not been complied with,
  (b) recommend modifications that the examiner considers sufficient and necessary to remedy that non-compliance, and
  (c) recommend that the draft be approved with—
    (i) those modifications, or
    (ii) other modifications sufficient and necessary to remedy that non-compliance.

(5) Subject to subsections (2) to (4), the examiner must recommend that the draft be approved.

(6) If the examiner makes recommendations under subsection (4), the examiner may recommend other modifications with which the draft should be approved in the event that it is approved.

(7) If the examiner makes recommendations under subsection (5), the examiner may recommend modifications with which the draft should be approved in the event that it is approved."

(5) For section 213(1) (charging authority has to follow examiner's recommendations when approving charging schedule) substitute—

"(1) A charging authority may approve a charging schedule only if—
  (a) the examiner makes recommendations under section 212A(4) or (5), and
  (b) the charging authority has had regard to those recommendations and the examiner's reasons for them.

(1A) Accordingly, a charging authority may not approve a charging schedule if, under section 212A(2), the examiner recommends rejection.

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(1B) If the examiner makes recommendations under section 212A(4), the charging authority may approve the charging schedule only if it does so with modifications that are sufficient and necessary to remedy the non-compliance specified under section 212A(4)(a) (although those modifications need not be the ones recommended under section 212A(4)(b)).

(1C) If a charging authority approves a charging schedule, it may do so with all or none, or some one or more, of the modifications (if any) recommended under section 212A(6) or (7).

(1D) The modifications with which a charging schedule may be approved include only—

(a) modifications required by subsection (1B), and

(b) modifications allowed by subsection (1C).”

(6) In section 213 (approval of charging schedules) after subsection (3) insert—

“(3A) Subsection (3B) applies if—

(a) the examiner makes recommendations under section 212A(4), and

(b) the charging schedule is approved by the charging authority.

(3B) The charging authority must publish a report setting out how the charging schedule as approved remedies the non-compliance specified under section 212A(4)(a).

(3C) CIL regulations may make provision about the form or contents of a report under subsection (3B).”

(7) In section 213 after subsection (4) insert—

“(5) In this section “examiner” means examiner under section 212.”

(8) The amendments made by this section do not apply in relation to cases where an examiner submits recommendations to a charging authority before the coming into force of this section, but subject to that the cases in relation to which the amendments apply include a case in which steps in relation to the charging schedule have been taken before then.

115 Use of Community Infrastructure Levy

(1) The Planning Act 2008 is amended as follows.

(2) In section 205(2) (requirement to aim to ensure that overall purpose of the levy is to ensure that costs of providing infrastructure to support development of an area can be funded by owners or developers of land)—

(a) for “providing infrastructure to support” substitute “ supporting ”, and

(b) after “land” insert “ in a way that does not make development of the area economically unviable ”.

(3) In the Table in section 205(3) (which describes the provisions of the Part) for “Section 216” substitute “ Sections 216 to 216B ”.

(4) In section 211(4) (particular provision that may be included in regulations about setting rates, or other criteria, by reference to which the amount of levy chargeable is to be determined) after paragraph (a) insert—

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"(aa) to have regard, to the extent and in the manner specified by the regulations, to actual and expected costs of anything other than infrastructure that is concerned with addressing demands that development places on an area (whether by reference to lists prepared by virtue of section 216(5)(a) or otherwise);

(ab) to have regard, to the extent and in the manner specified by the regulations, to other actual and expected sources of funding for anything other than infrastructure that is concerned with addressing demands that development places on an area;".

(5) In section 216 (application of levy)—

(a) in subsection (1) (levy to be used to fund infrastructure, or pay compensation under section 219)—

(i) for "section" substitute " sections 216A(1), 216B(2) and ", and

(ii) for "funding infrastructure" substitute " supporting development by funding the provision, improvement, replacement, operation or maintenance of infrastructure ",

(b) in subsection (2) (meaning of "infrastructure" in subsection (1)) for "subsection (1)" substitute " this section (except subsection (3)) and sections 216A(2) and 216B(2) ",

(c) in subsection (4)(a) (power to specify facilities that are to be, or not to be, funded) for "that are to be, or not to" substitute " whose provision, improvement or replacement may or is to be, or may not ",

(d) in subsection (4) (matters that may be specified by regulations) after paragraph (a) insert—

"(aa) maintenance activities and operational activities (including operational activities of a promotional kind) in connection with infrastructure that may or are to be, or may not be, funded by CIL,

(ab) things within section 216A(2)(b) that may or are to be, or may not be, funded by CIL passed to a person in discharge of a duty under section 216A(1),

(ac) things within section 216B(2)(b) that may or are to be, or may not be, funded by CIL to which provision under section 216B(2) relates,",

(e) in subsection (4)(b) (power to specify criteria for determining areas in relation to which infrastructure may be funded) for "in relation to which infrastructure may be funded" substitute " that may benefit from funding ",

(f) in subsection (5)(a) (power to require authorities to list projects that are to be, or may be, funded) for "projects that are" substitute " what is ",

(g) in subsection (5)(c) (power to make provision about funding projects not on list) for "projects" substitute " anything ",

(h) in subsection (6)(b) (regulations about funding may permit levy to be reserved for expenditure on future projects) for "on future projects" substitute " in the future ",

(i) in subsection (6)(c) (regulations may permit funding of administrative expenses in connection with infrastructure) after "infrastructure" insert " or anything within section 216A(2)(b) or 216B(2)(b) ", and

(j) in subsection (6)(e) (regulations may make provision for the use of funding where the projects to be funded no longer require funding)—

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(i) for "the projects" substitute " anything ", and
(ii) for "require" substitute " requires ".

(6) After section 216 insert—

"**216A Duty to pass receipts to other persons**

(1) CIL regulations may require that CIL received in respect of development of land in an area is to be passed by the charging authority that charged the CIL to a person other than that authority.

(2) CIL regulations must contain provision to secure that money passed to a person in discharge of a duty under subsection (1) is used to support the development of the area to which the duty relates, or of any part of that area, by funding—
(a) the provision, improvement, replacement, operation or maintenance of infrastructure, or
(b) anything else that is concerned with addressing demands that development places on an area.

(3) A duty under subsection (1) may relate to—
(a) the whole of a charging authority's area or the whole of the combined area of two or more charging authorities, or
(b) part only of such an area or combined area.

(4) CIL regulations may make provision about the persons to whom CIL may or must, or may not, be passed in discharge of a duty under subsection (1).

(5) A duty under subsection (1) may relate—
(a) to all CIL (if any) received in respect of the area to which the duty relates, or
(b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations.

(6) CIL regulations may make provision in connection with the timing of payments in discharge of a duty under subsection (1).

(7) CIL regulations may, in relation to CIL passed to a person in discharge of a duty under subsection (1), make provision about—
(a) accounting for the CIL,
(b) monitoring its use,
(c) reporting on its use,
(d) responsibilities of charging authorities for things done by the person in connection with the CIL,
(e) recovery of the CIL, and any income or profits accruing in respect of it or from its application, in cases where—
(i) anything to be funded by it has not been provided, or
(ii) it has been misapplied,
including recovery of sums or other assets representing it or any such income or profits, and
(f) use of anything recovered in cases where—
(i) anything to be funded by the CIL has not been provided, or

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(ii) the CIL has been misapplied.

(8) This section does not limit section 216(7)(f).

216B Use of CIL in an area to which section 216A(1) duty does not relate

(1) Subsection (2) applies where—

(a) there is an area to which a particular duty under section 216A(1) relates, and

(b) there is also an area to which that duty does not relate ("the uncovered area").

(2) CIL regulations may provide that the charging authority that charges CIL received in respect of development of land in the uncovered area may apply the CIL, or cause it to be applied, to—

(a) support development by funding the provision, improvement, replacement, operation or maintenance of infrastructure, or

(b) support development of the uncovered area, or of any part of that area, by funding anything else that is concerned with addressing demands that development places on an area.

(3) Provision under subsection (2) may relate to the whole, or part only, of the uncovered area.

(4) Provision under subsection (2) may relate—

(a) to all CIL (if any) received in respect of the area to which the provision relates, or

(b) such part of that CIL as is specified in, or determined under or in accordance with, CIL regulations."

Commencement Information

I50 S. 115 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(g)** (with arts. 6, 7, arts. 9-11)

CHAPTER 3

NEIGHBOURHOOD PLANNING

116 Neighbourhood planning

(1) Schedule 9 (which makes provision about neighbourhood development orders and neighbourhood development plans) has effect.

(2) After Schedule 4A to the Town and Country Planning Act 1990 insert the Schedule 4B set out in Schedule 10 to this Act.

(3) After the inserted Schedule 4B to that Act insert the Schedule 4C set out in Schedule 11 to this Act.

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Commencement Information

I51 S. 116 in force for specified purposes at Royal Assent see s. 240(5)(j)

I52 S. 116 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(h)** (with arts. 6, 7, arts. 9-11)

117 Charges for meeting costs relating to neighbourhood planning

(1) The Secretary of State may with the consent of the Treasury make regulations providing for the imposition of charges for the purpose of meeting expenses incurred (or expected to be incurred) by local planning authorities in, or in connection with, the exercise of their neighbourhood planning functions.

(2) A local planning authority's "neighbourhood planning functions" are any of their functions exercisable under any provision made by or under—

(a) any of sections 61E to 61Q of, or Schedule 4B or 4C to, the Town and Country Planning Act 1990 (neighbourhood development orders),

(b) any of sections 38A to 38C of the Planning and Compulsory Purchase Act 2004 (neighbourhood development plans), or

(c) this section.

(3) The regulations must secure—

(a) that the charges are payable in relation to development for which planning permission is granted by a neighbourhood development order made under section 61E of the Town and Country Planning Act 1990,

(b) that the charges become payable when the development is commenced (determined in accordance with the regulations), and

(c) that the charges are payable to local planning authorities.

(4) The regulations may authorise local planning authorities to set the amount of charges imposed by the regulations; and, if so, the regulations may—

(a) provide for the charges not to be payable at any time unless at that time a document (a "charging document") has been published by the authority setting out the amounts chargeable under the regulations in relation to development in their area,

(b) make provision about the approval and publication of a charging document,

(c) prescribe matters to which the authorities must have regard in setting the charges,

(d) require the authorities, in setting the charges, to disregard such expenditure expected to be incurred as mentioned in subsection (1) as falls within a description prescribed by the regulations,

(e) authorise the authorities to set different charges for different cases, circumstances or areas (either generally or only to the extent specified in the regulations), and

(f) authorise the authorities to make exceptions (either generally or only to the extent specified in the regulations).

(5) The regulations must make provision about liability to pay a charge imposed by the regulations.

(6) The regulations may make provision—

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(a) enabling any person to assume (in accordance with any procedural provision made by the regulations) the liability to pay a charge imposed by the regulations before it becomes payable,
(b) about assumption of partial liability,
(c) about the withdrawal of assumption of liability,
(d) about the cancellation by a local planning authority of assumption of liability,
(e) for the owner or developer of land to be liable to pay the charge in cases prescribed by the regulations,
(f) about joint liability (with or without several liability),
(g) about liability of partnerships,
(h) about apportionment of liability, including provision for referral to a specified body or other person for determination and provision for appeals, and
(i) about transfer of liability (whether before or after the charge becomes due and whether or not liability has been assumed).

(7) In subsection (6)(e)—
(a) "owner" of land means a person who owns an interest in land, and
(b) "developer" means a person who is wholly or partly responsible for carrying out a development.

(8) The provision for appeals that may be made as a result of subsection (6)(h) includes provision about—
(a) the period within which the right of appeal may be exercised,
(b) the procedure on appeals, and
(c) the payment of fees, and award of costs, in relation to appeals (including provision requiring local planning authorities to bear expenses incurred in connection with appeals).

118 Regulations under section 117: collection and enforcement

(1) Regulations under section 117 must include provision about the collection of charges imposed by the regulations.

(2) The regulations may make provision—
(a) for payment on account or by instalments,
(b) about repayment (with or without interest) in cases of overpayment, and
(c) about the source of payments in respect of a Crown interest or Duchy interest (within the meaning of section 227(3) or (4) of the Planning Act 2008).

(3) Regulations under section 117 must include provision about enforcement of charges imposed by the regulations; and that provision must include provision—
(a) for a charge (or other amount payable under the regulations) to be treated as a civil debt due to a local planning authority, and
(b) for the debt to be recoverable summarily.

(4) The regulations may make provision—
(a) about the consequences of failure to assume liability, to give a notice or to comply with another procedure under the regulations,
(b) for the payment of interest (at a rate specified in, or determined in accordance with, the regulations),

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(c) for the imposition of a penalty or surcharge (of an amount specified in, or determined in accordance with, the regulations),

(d) replicating or applying (with or without modifications) any provision made by any of sections 324 to 325A of the Town and Country Planning Act 1990 (rights of entry), and

(e) for enforcement in the case of death or insolvency of a person liable for the charge.

119 Regulations under section 117: supplementary

(1) Regulations under section 117 may make provision about procedures to be followed in connection with charges imposed by the regulations.

(2) The regulations may make provision about—

(a) procedures to be followed by a local planning authority proposing to start or stop imposing a charge,

(b) procedures to be followed by a local planning authority in relation to the imposition of a charge,

(c) the arrangements of a local planning authority for the making of any decision prescribed by the regulations,

(d) consultation,

(e) the publication or other treatment of reports,

(f) timing and methods of publication,

(g) making documents available for inspection,

(h) providing copies of documents (with or without charge),

(i) the form and content of documents,

(j) giving notice,

(k) serving notices or other documents, and

(l) procedures to be followed in connection with actual or potential liability for a charge.

(3) Provision made by the regulations as a result of subsection (2)(c) is to have effect despite provision made by any enactment as to the arrangements of a local planning authority for the exercise of their functions (such as section 101 of the Local Government Act 1972 or section 13 of the Local Government Act 2000).

(4) Regulations under section 117 may make provision binding the Crown.

(5) Regulations under section 117 may make—

(a) provision applying any enactment (with or without modifications), and

(b) provision for exceptions.

(6) A local planning authority must have regard to any guidance issued by the Secretary of State in the exercise of any of their functions under regulations under section 117.

(7) For the purposes of sections 117 and 118 and this section "local planning authority" means an authority that have made or have power to make—

(a) a neighbourhood development order under section 61E of the Town and Country Planning Act 1990, or

(b) a neighbourhood development plan under section 38A of the Planning and Compulsory Purchase Act 2004.

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(8) Nothing in section 117, 118 or this section that authorises the inclusion of any particular kind of provision in regulations under section 117 is to be read as restricting the generality of the provision that may be included in the regulations.

120 Financial assistance in relation to neighbourhood planning

(1) The Secretary of State may do anything that the Secretary of State considers appropriate—

(a) for the purpose of publicising or promoting the making of neighbourhood development orders or neighbourhood development plans and the benefits expected to arise from their making, or

(b) for the purpose of giving advice or assistance to anyone in relation to the making of proposals for such orders or plans or the doing of anything else for the purposes of, or in connection with, such proposals or such orders or plans.

(2) The things that the Secretary of State may do under this section include, in particular—

(a) the provision of financial assistance (or the making of arrangements for its provision) to any body or other person, and

(b) the making of agreements or other arrangements with any body or other person (under which payments may be made to the person).

(3) In this section—

(a) the reference to giving advice or assistance includes providing training or education,

(b) any reference to the provision of financial assistance is to the provision of financial assistance by any means (including the making of a loan and the giving of a guarantee or indemnity),

(c) any reference to a neighbourhood development order is to a neighbourhood development order under section 61E of the Town and Country Planning Act 1990, and

(d) any reference to a neighbourhood development plan is to a neighbourhood development plan under section 38A of the Planning and Compulsory Purchase Act 2004.

121 Consequential amendments

Schedule 12 (neighbourhood planning: consequential amendments) has effect.

Commencement Information

I53 S. 121 in force for specified purposes at Royal Assent see s. 240(5)(j)

I54 S. 121 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(h)** (with arts. 6, 7, arts. 9-11)

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CHAPTER 4

CONSULTATION

122 Consultation before applying for planning permission

(1) In the Town and Country Planning Act 1990, before section 62 (and before the italic heading which precedes that section) insert—

"Consultation before applying for planning permission

61W Requirement to carry out pre-application consultation

(1) Where—
  (a) a person proposes to make an application for planning permission for the development of any land in England, and
  (b) the proposed development is of a description specified in a development order,

  the person must carry out consultation on the proposed application in accordance with subsections (2) and (3).

(2) The person must publicise the proposed application in such manner as the person reasonably considers is likely to bring the proposed application to the attention of a majority of the persons who live at, or otherwise occupy, premises in the vicinity of the land.

(3) The person must consult each specified person about the proposed application.

(4) Publicity under subsection (2) must—
  (a) set out how the person ("P") may be contacted by persons wishing to comment on, or collaborate with P on the design of, the proposed development, and
  (b) give such information about the proposed timetable for the consultation as is sufficient to ensure that persons wishing to comment on the proposed development may do so in good time.

(5) In subsection (3) "specified person" means a person specified in, or of a description specified in, a development order.

(6) Subsection (1) does not apply—
  (a) if the proposed application is an application under section 293A, or
  (b) in cases specified in a development order.

(7) A person subject to the duty imposed by subsection (1) must, in complying with that subsection, have regard to the advice (if any) given by the local planning authority about local good practice.

61X Duty to take account of responses to consultation

(1) Subsection (2) applies where a person—
  (a) has been required by section 61W(1) to carry out consultation on a proposed application for planning permission, and

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(b) proposes to go ahead with making an application for planning permission (whether or not in the same terms as the proposed application).

(2) The person must, when deciding whether the application that the person is actually to make should be in the same terms as the proposed application, have regard to any responses to the consultation that the person has received.

61Y **Power to make supplementary provision**

(1) A development order may make provision about, or in connection with, consultation which section 61W(1) requires a person to carry out on a proposed application for planning permission.

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

(a) provision about, or in connection with, publicising the proposed application;

(b) provision about, or in connection with, the ways of responding to the publicity;

(c) provision about, or in connection with, consultation under section 61W(3);

(d) provision about, or in connection with, collaboration between the person and others on the design of the proposed development;

(e) provision as to the timetable (including deadlines) for—

(i) compliance with section 61W(1),

(ii) responding to publicity under section 61W(2), or

(iii) responding to consultation under section 61W(3);

(f) provision for the person to prepare a statement setting out how the person proposes to comply with section 61W(1);

(g) provision for the person to comply with section 61W(1) in accordance with a statement required by provision under paragraph (f).

(3) Provision under subsection (1) may be different for different cases."

(2) In section 62 of the Town and Country Planning Act 1990 (applications for planning permission) after subsection (6) insert—

"(7) In subsection (8) "a relevant application" means the application for planning permission in a case where a person—

(a) has been required by section 61W(1) to carry out consultation on a proposed application for planning permission, and

(b) is going ahead with making an application for planning permission (whether or not in the same terms as the proposed application).

(8) A development order must require that a relevant application be accompanied by particulars of—

(a) how the person complied with section 61W(1),

(b) any responses to the consultation that were received by the person, and

(c) the account taken of those responses."

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(3) The amendments made by subsections (1) and (2) cease to have effect at the end of 7 years beginning with the day on which the inserted section 61W(1) comes fully into force, but this is subject to subsection (4).

(4) The Secretary of State may by order provide that the amendments are, instead of ceasing to have effect at the time they would otherwise cease to have effect, to cease to have effect at the end of a period of not more than 7 years from that time.

Commencement Information

I55 S. 122 in force for specified purposes at Royal Assent see s. 240(5)(l)

CHAPTER 5

ENFORCEMENT

VALID FROM 06/04/2012

123 Retrospective planning permission

(1) The Town and Country Planning Act 1990 is amended as follows.

(2) After section 70B insert—

"**70C Power to decline to determine retrospective application**

(1) A local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.

(2) For the purposes of the operation of this section in relation to any particular application for planning permission, a "pre-existing enforcement notice" is an enforcement notice issued before the application was received by the local planning authority."

(3) In section 78(2)(aa) (which refers to an authority not having given notice that it has exercised its power under section 70A or 70B to decline to determine an application) after "or 70B" insert " or 70C ".

(4) In section 174 (appeal against enforcement notice) after subsection (2) insert—

"(2A) An appeal may not be brought on the ground specified in subsection (2)(a) if—

(a) the land to which the enforcement notice relates is in England, and

(b) the enforcement notice was issued at a time—

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(i) after the making of a related application for planning permission, but

(ii) before the end of the period applicable under section 78(2) in the case of that application.

(2B) An application for planning permission for the development of any land is, for the purposes of subsection (2A), related to an enforcement notice if granting planning permission for the development would involve granting planning permission in respect of the matters specified in the enforcement notice as constituting a breach of planning control."

(5) In section 177 (grant or modification of planning permission on appeals against enforcement notice) after subsection (1B) insert—

"(1C) If the land to which the enforcement notice relates is in England, subsection (1)(a) applies only if the statement under section 174(4) specifies the ground mentioned in section 174(2)(a)."

(6) In section 177(5) (deemed application for planning permission where appeal brought against enforcement notice) for the words from the beginning to "the appellant" substitute—

"Where an appeal against an enforcement notice is brought under section 174 and—

(a) the land to which the enforcement notice relates is in Wales, or

(b) that land is in England and the statement under section 174(4) specifies the ground mentioned in section 174(2)(a),

the appellant".

124 Time limits for enforcing concealed breaches of planning control

(1) In the Town and Country Planning Act 1990 after section 171B insert—

"**171BA Time limits in cases involving concealment**

(1) Where it appears to the local planning authority that there may have been a breach of planning control in respect of any land in England, the authority may apply to a magistrates' court for an order under this subsection (a "planning enforcement order") in relation to that apparent breach of planning control.

(2) If a magistrates' court makes a planning enforcement order in relation to an apparent breach of planning control, the local planning authority may take enforcement action in respect of—

(a) the apparent breach, or

(b) any of the matters constituting the apparent breach,

at any time in the enforcement year.

(3) "The enforcement year" for a planning enforcement order is the year that begins at the end of 22 days beginning with the day on which the court's decision to make the order is given, but this is subject to subsection (4).

(4) If an application under section 111(1) of the Magistrates' Courts Act 1980 (statement of case for opinion of High Court) is made in respect of a planning

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enforcement order, the enforcement year for the order is the year beginning with the day on which the proceedings arising from that application are finally determined or withdrawn.

(5) Subsection (2)—
  (a) applies whether or not the time limits under section 171B have expired, and
  (b) does not prevent the taking of enforcement action after the end of the enforcement year but within those time limits.

171BB Planning enforcement orders: procedure

(1) An application for a planning enforcement order in relation to an apparent breach of planning control may be made within the 6 months beginning with the date on which evidence of the apparent breach of planning control sufficient in the opinion of the local planning authority to justify the application came to the authority's knowledge.

(2) For the purposes of subsection (1), a certificate—
  (a) signed on behalf of the local planning authority, and
  (b) stating the date on which evidence sufficient in the authority's opinion to justify the application came to the authority's knowledge,

  is conclusive evidence of that fact.

(3) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(4) Where the local planning authority apply to a magistrates' court for a planning enforcement order in relation to an apparent breach of planning control in respect of any land, the authority must serve a copy of the application—
  (a) on the owner and on the occupier of the land, and
  (b) on any other person having an interest in the land that is an interest which, in the opinion of the authority, would be materially affected by the taking of enforcement action in respect of the apparent breach.

(5) The persons entitled to appear before, and be heard by, the court hearing an application for a planning enforcement order in relation to an apparent breach of planning control in respect of any land include—
  (a) the applicant,
  (b) any person on whom a copy of the application was served under subsection (4), and
  (c) any other person having an interest in the land that is an interest which, in the opinion of the court, would be materially affected by the taking of enforcement action in respect of the apparent breach.

(6) In this section "planning enforcement order" means an order under section 171BA(1).

171BC Making a planning enforcement order

(1) A magistrates' court may make a planning enforcement order in relation to an apparent breach of planning control only if—

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(a) the court is satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons, and

(b) the court considers it just to make the order having regard to all the circumstances.

(2) A planning enforcement order must—

(a) identify the apparent breach of planning control to which it relates, and

(b) state the date on which the court's decision to make the order was given.

(3) In this section "planning enforcement order" means an order under section 171BA(1)."

(2) In section 188 of the Town and Country Planning Act 1990 (register of enforcement and stop notices)—

(a) in subsection (1) (matters to which registers apply) before paragraph (a) insert—

"(za) to planning enforcement orders,",

(b) in subsection (2)(a) (development order may make provision about removal of entries from register)—

(i) before "enforcement notice" insert " planning enforcement order, ",

(ii) before "any such notice" insert " any planning enforcement order or ", and

(iii) after "specified in the" insert " development ",

(c) in subsection (2)(b) (development order may make provision about supply of information by county planning authority) after "served by" insert " , and planning enforcement orders made on applications made by, ",

(d) after subsection (3) insert—

"(4) In this section "planning enforcement order" means an order under section 171BA(1).", and

(e) in the heading after "and stop notices" insert " and other enforcement action ".

(3) In section 191 of the Town and Country Planning Act 1990 (certificate of lawfulness of existing use or development) after subsection (3) insert—

"(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if—

(a) the time for applying for an order under section 171BA(1) (a "planning enforcement order") in relation to the matter has not expired,

(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or

(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired."

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Commencement Information

I56 S. 124(2) in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(i)** (with arts. 6, 7, arts. 9-11)

VALID FROM 06/04/2012

125 Assurance as regards prosecution for person served with enforcement notice

In the Town and Country Planning Act 1990 after section 172 (issue and service of enforcement notice) insert—

"**172A Assurance as regards prosecution for person served with notice**

(1) When, or at any time after, an enforcement notice is served on a person, the local planning authority may give the person a letter—

(a) explaining that, once the enforcement notice had been issued, the authority was required to serve the notice on the person,

(b) giving the person one of the following assurances—

(i) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the enforcement notice, or

(ii) that, in the circumstances as they appear to the authority, the person is not at risk of being prosecuted under section 179 in connection with the matters relating to the enforcement notice that are specified in the letter,

(c) explaining, where the person is given the assurance under paragraph (b)(ii), the respects in which the person is at risk of being prosecuted under section 179 in connection with the enforcement notice, and

(d) stating that, if the authority subsequently wishes to withdraw the assurance in full or part, the authority will first give the person a letter specifying a future time for the withdrawal that will allow the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(2) At any time after a person has under subsection (1) been given a letter containing an assurance, the local planning authority may give the person a letter withdrawing the assurance (so far as not previously withdrawn) in full or part from a time specified in the letter.

(3) The time specified in a letter given under subsection (2) to a person must be such as will give the person a reasonable opportunity to take any steps necessary to avoid any risk of prosecution that is to cease to be covered by the assurance.

(4) Withdrawal under subsection (2) of an assurance given under subsection (1) does not withdraw the assurance so far as relating to prosecution on account

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of there being a time before the withdrawal when steps had not been taken or an activity had not ceased.

(5) An assurance given under subsection (1) (so far as not withdrawn under subsection (2)) is binding on any person with power to prosecute an offence under section 179."

VALID FROM 06/04/2012

126 Planning offences: time limits and penalties

(1) The Town and Country Planning Act 1990 is amended as follows.

(2) In section 187A(12) (maximum penalty of level 3 on standard scale for offence of being in breach of a breach of condition notice) for "fine not exceeding level 3 on the standard scale" substitute "fine—

(a) not exceeding level 4 on the standard scale if the land is in England;

(b) not exceeding level 3 on the standard scale if the land is in Wales".

(3) In section 210 (penalties for non-compliance with tree preservation regulations) after subsection (4) insert—

"(4A) Proceedings for an offence under subsection (4) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge.

(4B) Subsection (4A) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.

(4C) For the purposes of subsection (4A), a certificate—

(a) signed by or on behalf of the prosecutor, and

(b) stating the date on which evidence sufficient in the prosecutor's opinion to justify the proceedings came to the prosecutor's knowledge,

is conclusive evidence of that fact.

(4D) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(4E) Subsection (4A) does not apply in relation to an offence in respect of a tree in Wales."

(4) In section 224 (enforcement of control as to advertisements) after subsection (6) insert—

"(7) Proceedings for an offence under subsection (3) may be brought within the period of 6 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to justify the proceedings came to the prosecutor's knowledge.

(8) Subsection (7) does not authorise the commencement of proceedings for an offence more than 3 years after the date on which the offence was committed.

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(9) For the purposes of subsection (7), a certificate—
  (a) signed by or on behalf of the prosecutor, and
  (b) stating the date on which evidence sufficient in the prosecutor's opinion to justify the proceedings came to the prosecutor's knowledge,

  is conclusive evidence of that fact.

(10) A certificate stating that matter and purporting to be so signed is to be deemed to be so signed unless the contrary is proved.

(11) Subsection (7) does not apply in relation to an offence in respect of an advertisement in Wales.”

(5) An amendment made by this section applies only in relation to offences committed after the amendment has come into force.

VALID FROM 06/04/2012

127 Powers in relation to: unauthorised advertisements; defacement of premises

(1) In Part 8 of the Town and Country Planning Act 1990 (special controls) in Chapter 3 (advertisements) after section 225 insert—

“**225A Power to remove structures used for unauthorised display**

(1) Subject to subsections (2), (3) and (5) and the right of appeal under section 225B, the local planning authority for an area in England may remove, and then dispose of, any display structure—
  (a) which is in their area; and
  (b) which, in the local planning authority's opinion, is used for the display of advertisements in contravention of regulations under section 220.

(2) Subsection (1) does not authorise the removal of a display structure in a building to which there is no public right of access.

(3) The local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first served a removal notice on a person who appears to the local planning authority to be responsible for the erection or maintenance of the display structure.

(4) Subsection (3) applies only if there is a person—
  (a) who appears to the local planning authority to be responsible for the erection or maintenance of the display structure; and
  (b) whose name and address are either known by the local planning authority or could be ascertained by the local planning authority after reasonable enquiry.

(5) If subsection (3) does not apply, the local planning authority may not under subsection (1) remove a display structure unless the local planning authority have first—

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(a) fixed a removal notice to the display structure or exhibited a removal notice in the vicinity of the display structure; and

(b) served a copy of that notice on the occupier of the land on which the display structure is situated.

(6) Subsection (5)(b) applies only if the local planning authority know who the occupier is or could identify the occupier after reasonable enquiry.

(7) Where—

(a) the local planning authority has served a removal notice in accordance with subsection (3) or (5)(b), and

(b) the display structure is not removed by the time specified in the removal notice,

the local planning authority may recover, from any person on whom the removal notice has been served under subsection (3) or (5)(b), expenses reasonably incurred by the local planning authority in exercising the local planning authority's power under subsection (1).

(8) Expenses are not recoverable under subsection (7) from a person if the person satisfies the local planning authority that the person was not responsible for the erection of the display structure and is not responsible for its maintenance.

(9) Where in the exercise of power under subsection (1) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection or section 325(6)—

(a) for damage caused to the display structure; or

(b) for damage reasonably caused in removing the display structure.

(10) The provisions of section 118 apply in relation to compensation under subsection (9) as they apply in relation to compensation under Part 4.

(11) In this section “removal notice”, in relation to a display structure, means notice—

(a) stating that in the local planning authority's opinion the display structure is used for the display of advertisements in contravention of regulations under section 220;

(b) stating that the local planning authority intend after a time specified in the notice to remove the display structure; and

(c) stating the effect of subsections (7) and (8).

(12) A time specified under subsection (11)(b) may not be earlier than the end of 22 days beginning with the date of the notice.

(13) In this section “display structure” means (subject to subsection (14))—

(a) a hoarding or similar structure used, or designed or adapted for use, for the display of advertisements;

(b) anything (other than a hoarding or similar structure) principally used, or designed or adapted principally for use, for the display of advertisements;

(c) a structure that is itself an advertisement; or

(d) fitments used to support anything within any of paragraphs (a) to (c).

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Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(14) Something is a "display structure" for the purpose of this section only if—

(a) its use for the display of advertisement requires consent under this Chapter, and

(b) that consent has not been granted and is not deemed to have been granted.

(15) In subsection (13) "structure" includes movable structure.

225B Appeal against notice under section 225A

(1) A person on whom a removal notice has been served in accordance with section 225A(3) or (5)(b) may appeal to a magistrates' court on any of the following grounds—

(a) that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure;

(d) that the notice should have been served on another person.

(2) For the purposes of subsection (3), a person is a "permitted appellant" in relation to a removal notice if—

(a) the removal notice has been fixed or exhibited in accordance with section 225A(5)(a);

(b) the person is an owner or occupier of the land on which the display structure concerned is situated; and

(c) no copy of the removal notice has been served on the person in accordance with section 225A(5)(b).

(3) A person who is a permitted appellant in relation to a removal notice may appeal to a magistrates' court on any of the following grounds—

(a) that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure.

(4) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (3)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(5) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the removal notice should have been served in accordance with section 225A(3) or (5)(b).

(6) If—

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(a) a removal notice is served on a person in accordance with section 225A(3) or (5)(b), and

(b) the local planning authority bring proceedings against the person for the recovery under section 225A(7) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

(7) In this section "removal notice" and "display structure" have the same meaning as in section 225A.

225C Remedying persistent problems with unauthorised advertisements

(1) Subsections (2) and (3) apply if the local planning authority for an area in England have reason to believe that there is a persistent problem with the display of unauthorised advertisements on a surface of—

(a) any building, wall, fence or other structure or erection; or

(b) any apparatus or plant.

(2) The local planning authority may serve an action notice on the owner or occupier of the land in or on which the surface is situated.

(3) If after reasonable enquiry the local planning authority—

(a) are unable to ascertain the name and address of the owner, and

(b) are unable to ascertain the name and address of the occupier,

the local planning authority may fix an action notice to the surface.

(4) For the purposes of this section "an action notice", in relation to a surface, is a notice requiring the owner or occupier of the land in or on which the surface is situated to carry out the measures specified in the notice by a time specified in the notice.

(5) A time may be specified in an action notice if it is a reasonable time not earlier than the end of 28 days beginning with the date of the notice.

(6) Measures may be specified in an action notice if they are reasonable measures to prevent or reduce the frequency of the display of unauthorised advertisements on the surface concerned.

(7) The time by which an owner or occupier must comply with an action notice may be postponed by the local planning authority.

(8) This section has effect subject to—

(a) the other provisions of the enactments relating to town and country planning;

(b) the provisions of the enactments relating to historic buildings and ancient monuments; and

(c) Part 2 of the Food and Environmental Protection Act 1985 (which relates to deposits in the sea).

(9) Subsection (10) applies if—

(a) an action notice is served under subsection (2) or fixed under subsection (3); and

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(b) the measures specified in the notice are not carried out by the time specified in the notice.

(10) The local planning authority may—

(a) carry out the measures; and

(b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the action notice to do it.

(11) Power under subsection (10)(a) is subject to the right of appeal under section 225D.

(12) Where in the exercise of power under subsection (10)(a) any damage is caused to land or chattels, compensation may be recovered by any person suffering the damage from the local planning authority exercising the power, but compensation is not recoverable under this subsection for damage reasonably caused in carrying out the measures.

(13) The provisions of section 118 apply in relation to compensation under subsection (12) as they apply in relation to compensation under Part 4.

(14) The local planning authority may not recover expenses under subsection (10)(b) in respect of a surface that—

(a) forms part of a flat or a dwellinghouse;

(b) is within the curtilage of a dwellinghouse; or

(c) forms part of the boundary of the curtilage of a dwellinghouse.

(15) Each of sections 275 and 291 of the Public Health Act 1936 (provision for authority to agree to take the required measures at expense of owner or occupier, and provision for expenses to be recoverable also from owner's successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.

(16) In this section—

"dwellinghouse" does not include a building containing one or more flats, or a flat contained within such a building;

"flat" means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;

"unauthorised advertisement" means an advertisement in respect of which an offence—

(a) under section 224(3), or

(b) under section 132 of the Highways Act 1980 (unauthorised marks on highway),

is committed after the coming into force of this section.

225D Right to appeal against notice under section 225C

(1) A person on whom notice has been served under section 225C(2) may appeal to a magistrates' court on any of the following grounds—

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(a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one;
(b) that there has been some informality, defect or error in, or in connection with, the notice;
(c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose;
(d) that the notice should have been served on another person.

(2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225C(3) may appeal to a magistrates' court on any of the following grounds—
(a) that there is no problem with the display of unauthorised advertisements on the surface concerned or any such problem is not a persistent one;
(b) that there has been some informality, defect or error in, or in connection with, the notice;
(c) that the time within which the measures specified in the notice are to be carried out is not reasonably sufficient for the purpose.

(3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225C(2) should have been served.

(5) If—
(a) notice under section 225C(2) is served on a person, and
(b) the local planning authority bring proceedings against the person for the recovery under section 225C(10)(b) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

225E Applying section 225C to statutory undertakers' operational land

(1) Subsection (2) and (3) apply where the local planning authority serves a notice under section 225C(2) requiring a statutory undertaker to carry out measures in respect of the display of unauthorised advertisements on a surface on its operational land.

(2) The statutory undertaker may, within 28 days beginning with the date of service of the notice, serve a counter-notice on the local planning authority specifying alternative measures which will in the statutory undertaker's reasonable opinion have the effect of preventing or reducing the frequency of the display of unauthorised advertisements on the surface to at least the same extent as the measures specified in the notice.

(3) Where a counter-notice is served under subsection (2), the notice under section 225C(2) is to be treated—

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(a) as requiring the alternative measures specified in the counter-notice to be carried out (instead of the measures actually required by the notice under section 225C(2)); and

(b) as having been served on the date on which the counter-notice is served.

(4) The time by which a statutory undertaker must carry out the measures specified in a counter-notice served under subsection (2) may be postponed by the local planning authority."

(2) In Part 8 of the Town and Country Planning Act 1990 (special controls) after Chapter 3 insert—

"CHAPTER 4

REMEDYING DEFACEMENT OF PREMISES

225F **Power to remedy defacement of premises**

(1) Subsections (2) and (3) apply if—

(a) premises in England include a surface that is readily visible from a place to which the public have access;

(b) either—

(i) the surface does not form part of the operational land of a statutory undertaker, or

(ii) the surface forms part of the operational land of a statutory undertaker and subsection (11) applies to the surface;

(c) there is a sign on the surface; and

(d) the local planning authority consider the sign to be detrimental to the amenity of the area or offensive.

(2) The local planning authority may serve on the occupier of the premises a notice requiring the occupier to remove or obliterate the sign by a time specified in the notice.

(3) If it appears to the local planning authority that there is no occupier of the premises, the local planning authority may fix to the surface a notice requiring the owner or occupier of the premises to remove or obliterate the sign by a time specified in the notice.

(4) A time specified under subsection (2) or (3) may not be earlier than the end of 15 days beginning the date of service or fixing of the notice.

(5) Subsection (6) applies if—

(a) a notice is served under subsection (2) or fixed under subsection (3); and

(b) the sign is neither removed nor obliterated by the time specified in the notice.

(6) The local planning authority may—

(a) remove or obliterate the sign; and

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(b) recover expenses reasonably incurred by the local planning authority in doing that from the person required by the notice to do it.

(7) Power under subsection (6)(a) is subject to the right of appeal under section 225I.

(8) Expenses may not be recovered under subsection (6)(b) if the surface—
(a) forms part of a flat or a dwellinghouse;
(b) is within the curtilage of a dwellinghouse; or
(c) forms part of the boundary of the curtilage of a dwellinghouse.

(9) Section 291 of the Public Health Act 1936 (provision for expenses to be recoverable also from owner's successor or from occupier and to be charged on premises concerned) applies as if the reference in that section to that Act included a reference to this section.

(10) For the purposes of this section, a universal postal service provider is treated as being the occupier of any plant or apparatus that consists of a universal postal service letter box or a universal postal service pouch-box belonging to it.

(11) This subsection applies to a surface if the surface abuts on, or is one to which access is given directly from, either—
(a) a street; or
(b) any place, other than a street, to which the public have access as of right.

(12) In this section—

"dwellinghouse" does not include a building containing one or more flats, or a flat contained within such a building;

"flat" means a separate and self-contained set of premises constructed or adapted for use as a dwelling and forming part of a building from some other part of which it is divided horizontally;

"premises" means building, wall, fence or other structure or erection, or apparatus or plant;

"sign"—
(a) includes any writing, letter, picture, device or representation, but
(b) does not include an advertisement;

"statutory undertaker" does not include a relevant airport operator (within the meaning of Part 5 of the Airports Act 1986);

"street" includes any highway, any bridge carrying a highway and any road, lane, mews, footway, square, court, alley or passage, whether a thoroughfare or not;

"universal postal service letter box" has the meaning given in section 86(4) of the Postal Services Act 2000;

"universal postal service pouch-box" has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

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225G **Notices under section 225F in respect of post boxes**

(1) The local planning authority may serve a notice under section 225F(2) on a universal postal service provider in respect of a universal postal service letter box, or universal postal service pouch-box, belonging to the provider only if—

(a) the authority has served on the provider written notice of the authority's intention to do so; and

(b) the period of 28 days beginning with the date of service of that notice has ended.

(2) In this section—

"universal postal service letter box" has the meaning given in section 86(4) of the Postal Services Act 2000;

"universal postal service pouch-box" has the meaning given in paragraph 1(10) of Schedule 6 to that Act.

225H **Section 225F powers as respects bus shelters and other street furniture**

(1) The local planning authority may exercise the power conferred by section 225F(6)(a) to remove or obliterate a sign from any surface on a bus shelter, or other street furniture, of a statutory undertaker that is not situated on operational land of the statutory undertaker only if—

(a) the authority has served on the statutory undertaker notice of the authority's intention to do so;

(b) the notice specified the bus shelter, or other street furniture, concerned; and

(c) the period of 28 days beginning with the date of service of the notice has ended.

(2) In this section "statutory undertaker" does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986).

225I **Right to appeal against notice under section 225F**

(1) A person on whom notice has been served under section 225F(2) may appeal to a magistrates' court on any of the following grounds—

(a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose;

(d) that the notice should have been served on another person.

(2) The occupier or owner of premises which include a surface to which a notice has been fixed under section 225F(3) may appeal to a magistrates' court on any of the following grounds—

(a) that the sign concerned is neither detrimental to the amenity of the area nor offensive;

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(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the time within which the sign concerned is to be removed or obliterated is not reasonably sufficient for the purpose.

(3) So far as an appeal under this section is based on the ground mentioned in subsection (1)(b) or (2)(b), the court must dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) If an appeal under subsection (1) is based on the ground mentioned in subsection (1)(d), the appellant must serve a copy of the notice of appeal on each person who the appellant considers is a person on whom the notice under section 225F(2) should have been served.

(5) If—

(a) notice under section 225F(2) is served on a person, and

(b) the local planning authority bring proceedings against the person for the recovery under section 225F(6)(b) of any expenses,

it is not open to the person to raise in the proceedings any question which the person could have raised in an appeal under subsection (1).

225J **Remedying defacement at owner or occupier's request**

(1) Subsection (2) applies if—

(a) premises in England include a surface that is readily visible from a place to which the public have access;

(b) there is a sign on the surface; and

(c) the owner or occupier of the premises asks the local planning authority to remove or obliterate the sign.

(2) The local planning authority may—

(a) remove or obliterate the sign; and

(b) recover expenses reasonably incurred by the local planning authority in doing that from the person who asked the local planning authority to do it.

(3) In this section “premises” means building, wall, fence or other structure or erection, or apparatus or plant.

(4) In this section “sign”—

(a) includes—

(i) any writing, letter, picture, device or representation, and

(ii) any advertisement, but

(b) does not include an advertisement for the display of which deemed or express consent has been granted under Chapter 3.

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CHAPTER 5

APPLICATION OF PROVISIONS OF CHAPTERS 3 AND 4 TO STATUTORY UNDERTAKERS

225K **Action under sections 225A, 225C and 225F: operational land**

(1) This section applies in relation to the exercise by the local planning authority of—

(a) power conferred by section 225A(1), or section 324(3) so far as applying for the purposes of section 225A(1), to—

(i) enter on any operational land of a statutory undertaker, or

(ii) remove a display structure situated on operational land of a statutory undertaker;

(b) power conferred by section 225C(10)(a), or section 324(3) so far as applying for the purposes of section 225C(10)(a), to—

(i) enter on any operational land of a statutory undertaker, or

(ii) carry out any measures to prevent or reduce the frequency of the display of unauthorised advertisements on a surface on operational land of a statutory undertaker; or

(c) power conferred by section 225F(6)(a), or section 324(3) so far as applying for the purposes of section 225F(6)(a), to—

(i) enter on any operational land of a statutory undertaker, or

(ii) remove or obliterate a sign on a surface of premises that are, or are on, operational land of a statutory undertaker.

(2) The authority may exercise the power only if—

(a) the authority has served on the statutory undertaker notice of the authority's intention to do so;

(b) the notice specified the display structure, surface or sign concerned and its location; and

(c) the period of 28 days beginning with the date of service of the notice has ended.

(3) If—

(a) a notice under subsection (2) is served on a statutory undertaker, and

(b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority specifying conditions subject to which the power is to be exercised,

the power may only be exercised subject to, and in accordance with, the conditions specified in the counter-notice.

(4) The conditions which may be specified in a counter-notice under subsection (3) are conditions which are—

(a) necessary or expedient in the interests of safety or the efficient and economic operation of the undertaking concerned; or

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(b) for the protection of any works, apparatus or other property not vested in the statutory undertaker which are lawfully present on, in, under or over the land upon which entry is proposed to be made.

(5) If—

(a) a notice under subsection (2) is served on a statutory undertaker, and

(b) within 28 days beginning with the date the notice is served, the statutory undertaker serves a counter-notice on the local planning authority requiring the local planning authority to refrain from exercising the power,

the power may not be exercised.

(6) A counter-notice under subsection (5) may be served only if the statutory undertaker has reasonable grounds to believe, for reasons connected with the operation of its undertaking, that the power cannot be exercised under the circumstances in question—

(a) without risk to the safety of any person; or

(b) without unreasonable risk to the efficient and economic operation of the statutory undertaker's undertaking.

(7) In this section "statutory undertaker" does not include an airport operator (within the meaning of Part 5 of the Airports Act 1986)."

(3) In section 324(3) of the Town and Country Planning Act 1990 (power of entry where necessary for purposes of section 225) after "225" insert " , 225A(1), 225C(10)(a) or 225F(6)(a) ".

(4) In the London Local Authorities Act 1995 (c. x) omit sections 11 to 13 (provision as respects London which is generally superseded as a result of the provision as respects England made by the preceding provisions of this section).

(5) In section 11 of the London Local Authorities Act 2007 (c. ii) after subsection (10) insert—

"(11) The definition of "an advertising offence" given by section 4 of this Act applies for the purposes of subsection (10) above with—

(a) the omission of paragraphs (a) and (b), and

(b) in paragraph (d), the substitution of " paragraph " for "paragraphs (a) to"."

CHAPTER 6

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS

128 Abolition of Infrastructure Planning Commission

(1) The Infrastructure Planning Commission ceases to exist on the day on which this subsection comes into force.

(2) Schedule 13 (amendments in consequence of Commission's abolition, including amendments transferring its functions to Secretary of State) has effect.

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(3) On the coming into force of this subsection, the property, rights and liabilities of the Infrastructure Planning Commission vest by virtue of this subsection in the Secretary of State.

(4) Subsection (3) operates in relation to property, rights and liabilities—
- (a) whether or not they would otherwise be capable of being transferred,
- (b) without any instrument or other formality being required, and
- (c) irrespective of any requirement for consent that would otherwise apply.

(5) The transfer by virtue of subsections (2) to (4) is to be treated as a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) if it would not otherwise be a relevant transfer for those purposes.

(6) Subsections (3) and (4) do not affect the operation of those Regulations in relation to that transfer.

Commencement Information

I57 S. 128(2) in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 2(a)**

129 Transitional provision in connection with abolition

(1) The Secretary of State may, in connection with the operation of the abolition provisions, give a direction about the handling on and after the abolition date of—
- (a) an application received by the Infrastructure Planning Commission before the abolition date that purports to be an application for an order granting development consent under the Planning Act 2008,
- (b) a proposed application notified to the Commission under section 46 of that Act before the abolition date, or
- (c) an application received by the Secretary of State on or after the abolition date where—
  - (i) the application purports to be an application for an order granting development consent under that Act, and
  - (ii) a proposed application that has become that application was notified to the Commission under section 46 of that Act before the abolition date.

(2) A direction under subsection (1) may (in particular)—
- (a) make provision about the effect on and after the abolition date of things done before that date;
- (b) provide for provisions of or made under the Planning Act 2008 to apply on and after that date as they applied before that date, with or without modifications specified in the direction;
- (c) provide for provisions of or made under that Act to apply on and after the abolition date with modifications specified in the direction;
- (d) make provision for a person who immediately before the abolition date—
  - (i) is a member of the Commission, and
  - (ii) is a member of the Panel, or is the single Commissioner, handling an application for an order granting development consent under that Act,

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to be, or to be treated as being, a member of the Panel that under Chapter 2 of Part 6 of that Act, or the appointed person who under Chapter 3 of that Part, is to handle the application on and after the abolition date;

(e) make other transitional provision and savings;

(f) make provision binding the Crown.

(3) In this section—

"the abolition date" means the date on which section 128(1) comes into force;

"the abolition provisions" means section 128, Schedule 13 and Part 20 of Schedule 25.

Commencement Information

I58 S. 129 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 2(b)**

VALID FROM 01/04/2012

130 National policy statements

(1) The Planning Act 2008 is amended as follows.

(2) In section 5(4) (statement may be designated as national policy statement only if consultation, publicity and parliamentary requirements have been complied with) after "have been complied with in relation to it" insert "and—

(a) the consideration period for the statement has expired without the House of Commons resolving during that period that the statement should not be proceeded with, or

(b) the statement has been approved by resolution of the House of Commons—

(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period."

(3) In section 5 (national policy statements) after subsection (4) insert—

"(4A) In subsection (4) "the consideration period", in relation to a statement, means the period of 21 sitting days beginning with the first sitting day after the day on which the statement is laid before Parliament under section 9(8), and here "sitting day" means a day on which the House of Commons sits."

(4) In section 5(9) omit paragraph (b) (designated statement must be laid before Parliament).

(5) In section 6(7) (national policy statement may be amended only if consultation, publicity and parliamentary requirements have been complied with) after "have been complied with in relation to the proposed amendment" insert "and—

(a) the consideration period for the amendment has expired without the House of Commons resolving during that period that the amendment should not be proceeded with, or

(b) the amendment has been approved by resolution of the House of Commons—

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(i) after being laid before Parliament under section 9(8), and

(ii) before the end of the consideration period."

(6) In section 6 (review and amendment of national policy statements) after subsection (7) insert—

"(7A) In subsection (7) "the consideration period", in relation to an amendment, means the period of 21 sitting days beginning with the first sitting day after the day on which the amendment is laid before Parliament under section 9(8), and here "sitting day" means a day on which the House of Commons sits."

(7) In section 6(8) (subsections (6) and (7) do not apply if amendment does not materially affect national policy) for "and (7)" substitute " to (7A) ".

(8) After section 6 insert—

"**6A Interpretation of sections 5(4) and 6(7)**

(1) This section applies for the purposes of section 5(4) and 6(7).

(2) The consultation and publicity requirements set out in section 7 are to be treated as having been complied with in relation to a statement or proposed amendment ("the final proposal") if—

(a) they have been complied with in relation to a different statement or proposed amendment ("the earlier proposal"),

(b) the final proposal is a modified version of the earlier proposal, and

(c) the Secretary of State thinks that the modifications do not materially affect the policy as set out in the earlier proposal.

(3) The consultation and publicity requirements set out in section 7 are also to be treated as having been complied with in relation to a statement or proposed amendment ("the final proposal") if—

(a) they have been complied with—

(i) in relation to a different statement or proposed amendment ("the earlier proposal"), and

(ii) in relation to modifications of the earlier proposal ("the main modifications"),

(b) the final proposal is a modified version of the earlier proposal, and

(c) there are no modifications other than the main modifications or, where the modifications include modifications other than the main modifications, the Secretary of State thinks that those other modifications do not materially affect the policy as set out in the earlier proposal modified by the main modifications.

(4) If section 9(8) has been complied with in relation to a statement or proposed amendment ("the final proposal"), the parliamentary requirements set out in section 9(2) to (7) are to be treated as having been complied with in relation to the final proposal where—

(a) the final proposal is not the same as what was laid under section 9(2), but

(b) those requirements have been complied with in relation to what was laid under section 9(2).

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(5) Ignore any corrections of clerical or typographical errors in what was laid under section 9(8).

6B Extension of consideration period under section 5(4A) or 6(7A)

(1) The Secretary of State may—
  (a) in relation to a proposed national policy statement, extend the period mentioned in section 5(4A), or
  (b) in relation to a proposed amendment of a national policy statement, extend the period mentioned in section 6(7A),

by 21 sitting days or less.

(2) The Secretary of State does that by laying before the House of Commons a statement—
  (a) indicating that the period is to be extended, and
  (b) setting out the length of the extension.

(3) The statement under subsection (2) must be laid before the period would have expired without the extension.

(4) The Secretary of State must publish the statement under subsection (2) in a way the Secretary of State thinks appropriate.

(5) The period may be extended more than once."

(9) In section 8(1)(a) (local authorities within subsection (2) or (3) to be consulted about publicity required for proposed statement identifying a location) for "or (3)" substitute " , (3) or (3A) ".

(10) In section 8(3) (consultation with local authorities that share a boundary with the local authority ("B") whose area contains a location) before the "and" at the end of paragraph (a) insert—

"(aa) B is a unitary council or a lower-tier district council,".

(11) In section 8 (consultation on publicity requirements) after subsection (3) insert—

"(3A) If any of the locations concerned is in the area of an upper-tier county council ("C"), a local authority ("D") is within this subsection if—
  (a) D is not a lower-tier district council, and
  (b) any part of the boundary of D's area is also part of the boundary of C's area."

(12) In section 8, after subsection (4) (meaning of "local authority") insert—

"(5) In this section—

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

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(13) In section 9 (parliamentary requirements for national policy statements and their amendments) after subsection (7) insert—

"(8) After the end of the relevant period, but not before the Secretary of State complies with subsection (5) if it applies, the Secretary of State must lay the proposal before Parliament.

(9) If after subsection (8) has been complied with—

(a) something other than what was laid under subsection (8) becomes the proposal, or

(b) what was laid under subsection (8) remains the proposal, or again becomes the proposal, despite the condition in section 5(4)(a) not having been met in relation to it,

subsection (8) must be complied with anew.

(10) For the purposes of subsection (9)(a) and (b) ignore any proposal to correct clerical or typographical errors in what was laid under subsection (8)."

(14) Section 12 (power to designate pre-commencement statements of policy and to take account of pre-commencement consultation etc) is repealed.

VALID FROM 01/04/2012

131 Power to alter effect of requirement for development consent on other consent regimes

(1) The Planning Act 2008 is amended as follows.

(2) In section 33 (effect of requirement for development consent on other consent regimes) after subsection (4) insert—

"(5) The Secretary of State may by order—

(a) amend subsection (1) or (2)—

(i) to add or remove a type of consent, or

(ii) to vary the cases in relation to which a type of consent is within that subsection;

(b) make further provision, or amend or repeal provision, about—

(i) the types of consent that are, and are not, within subsection (1) or (2), or

(ii) the cases in relation to which a type of consent is, or is not, within either of those subsections.

(6) In this section "consent" means—

(a) a consent or authorisation that is required, under legislation, to be obtained for development,

(b) a consent, or authorisation, that—

(i) may authorise development, and

(ii) is given under legislation, or

(c) a notice that is required by legislation to be given in relation to development.

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(7) In subsection (6) "legislation" means an Act or an instrument made under an Act.

(8) An order under subsection (5) may not affect—

(a) a requirement for a devolved consent to be obtained for, or given in relation to, development, or

(b) whether development may be authorised by a devolved consent.

(9) A consent is "devolved" for the purposes of subsection (8) if—

(a) provision for the consent would be within the legislative competence of the National Assembly for Wales if the provision were contained in an Act of the Assembly,

(b) provision for the consent is, or could be, made by the Welsh Ministers in an instrument made under an Act,

(c) the consent is not within subsection (6)(c) and the Welsh Ministers have a power or duty—

(i) to decide, or give directions as to how to decide, whether the consent is given,

(ii) to decide, or give directions as to how to decide, some or all of the terms on which the consent is given, or

(iii) to revoke or vary the consent, or

(d) the consent is within subsection (6)(c) and the notice has to be given to the Welsh Ministers or otherwise brought to their attention.

(10) An order under subsection (5)(b) may amend this Act."

(3) In section 232 (orders and regulations)—

(a) in subsection (5)(d) (orders not subject to annulment by either House of Parliament) after "14(3)," insert " 33(5), ", and

(b) in subsection (6) (orders that must be approved in draft by both Houses of Parliament before being made) after "14(3)," insert " 33(5), ".

(4) In paragraph 4 of Schedule 12 (application of section 33 to Scotland: modifications)—

(a) in sub-paragraph (a) for paragraph (i) substitute—

"(i) for "none of the following is" there were substituted " the following are not ", and",

(b) omit the "and" at the end of sub-paragraph (a),

(c) in sub-paragraph (b) for "subsections (2) to (4)" substitute " paragraphs (a) to (c) of subsection (2), and subsections (3) and (4), ", and

(d) after sub-paragraph (b) insert ", and

(c) in subsection (7) "Act" includes an Act of the Scottish Parliament."

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VALID FROM 01/04/2012

132 Secretary of State's directions in relation to projects of national significance

(1) Section 35 of the Planning Act 2008 (directions in relation to projects of national significance) is amended in accordance with subsections (2) to (9).

(2) In subsection (1) (circumstances in which the Secretary of State may give directions) —

(a) omit paragraph (a) (requirement that an application for a consent or authorisation mentioned in section 33(1) or (2) has been made), and

(b) in paragraph (b)—

(i) omit "the", and

(ii) after "project" insert " , or proposed project, ".

(3) For subsection (4) (directions the Secretary of State may give) substitute—

"(4) The Secretary of State may direct the development to be treated as development for which development consent is required.

(4A) If no relevant application has been made, the power under subsection (4) is exercisable only in response to a qualifying request.

(4B) If the Secretary of State gives a direction under subsection (4), the Secretary of State may—

(a) if a relevant application has been made, direct the application to be treated as an application for an order granting development consent;

(b) if a person proposes to make a relevant application, direct the proposed application to be treated as a proposed application for development consent.

(4C) A direction under subsection (4) or (4B) may be given so as to apply for specified purposes or generally."

(4) In subsection (5) (power to modify application of statutory provisions in relation to an application etc)—

(a) for "subsection (4)" substitute " subsection (4B) ",

(b) in paragraph (a) after "application" insert " , or proposed application, ", and

(c) in paragraph (b) after "application" insert " or proposed application ".

(5) In subsection (6) (authority to which an application for a consent or authorisation mentioned in section 33(1) or (2) has been made to refer the application to the Commission)—

(a) for "subsection (4)" substitute " subsection (4B) ", and

(b) after "application" insert " , or proposed application, ".

(6) In subsection (7) (power to direct authority considering application for consent or authorisation mentioned in section 33(1) or (2) to take no further action)—

(a) for "subsection (4)" substitute " subsection (4B) ", and

(b) after "application" insert " , or proposed application, ".

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(7) In subsection (8) (power to require authority considering application for consent or authorisation mentioned in section 33(1) or (2) to provide information) for "the relevant authority" substitute " an authority within subsection (8A) ".

(8) After subsection (8) insert—

"(8A) An authority is within this subsection if a relevant application has been, or may be, made to it."

(9) After subsection (9) insert—

"(10) In this section—

"qualifying request" means a written request, for a direction under subsection (4) or (4B), that—

(a) specifies the development to which it relates, and

(b) explains why the conditions in subsection (1)(b) and (c) are met in relation to the development;

"relevant application" means an application, relating to the development, for a consent or authorisation mentioned in section 33(1) or (2);

"relevant authority"—

(a) in relation to a relevant application that has been made, means the authority to which the application was made, and

(b) in relation to a relevant application that a person proposes to make, means the authority to which the person proposes to make the application."

(10) In the Planning Act 2008 after section 35 insert—

"**35A Timetable for deciding request for direction under section 35**

(1) This section applies if the Secretary of State receives a qualifying request from a person ("R").

(2) The Secretary of State must make a decision on the qualifying request before the primary deadline, subject to subsection (3).

(3) Subsection (2) does not apply if, before the primary deadline, the Secretary of State asks R to provide the Secretary of State with information for the purpose of enabling the Secretary of State to decide—

(a) whether to give the direction requested, and

(b) the terms in which it should be given.

(4) If R—

(a) is asked under subsection (3) to provide information, and

(b) provides the information sought within the period of 14 days beginning with the day on which R is asked to do so,

the Secretary of State must make a decision on the qualifying request before the end of the period of 28 days beginning with the day the Secretary of State receives the information.

(5) In this section—

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"the primary deadline" means the end of the period of 28 days beginning with the day on which the Secretary of State receives the qualifying request;

"qualifying request" has the meaning given by section 35(10)."

VALID FROM 01/04/2012

133 Pre-application consultation with local authorities

(1) Section 43 of the Planning Act 2008 (local authorities for the purposes of the consultation requirements in section 42) is amended as follows.

(2) In subsection (2) (provision requiring consultation with local authorities that share a boundary with the local authority ("B") in whose area the development is to take place) before the "and" at the end of paragraph (a) insert—

"(aa) B is a unitary council or a lower-tier district council,".

(3) After subsection (2) insert—

"(2A) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area."

(4) For subsection (3) (definition of local authority) substitute—

"(3) In this section—

"local authority" means—

(a) a county council, or district council, in England;

(b) a London borough council;

(c) the Common Council of the City of London;

(d) the Council of the Isles of Scilly;

(e) a county council, or county borough council, in Wales;

(f) a council constituted under section 2 of the Local Government etc (Scotland) Act 1994;

(g) a National Park authority;

(h) the Broads Authority;

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

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VALID FROM 01/04/2012

134 Reform of duties to publicise community consultation statement

In section 47(6) of the Planning Act 2008 (duties of applicant for development consent to publicise the statement setting out how the applicant proposes to consult the local community)—

(a) for "must publish it—" substitute "must—

(za) make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,",

(b) in paragraph (a) (duty to publish statement in local newspaper)—

(i) at the beginning insert " publish, ", and

(ii) after "land" insert " , a notice stating where and when the statement can be inspected ", and

(c) in paragraph (b) (duty to publish statement in any other prescribed manner) for "in such other manner" substitute " publish the statement in such manner ".

VALID FROM 01/04/2012

135 Claimants of compensation for effects of development

(1) The Planning Act 2008 is amended as follows.

(2) In section 52(1) (obtaining information about interests in land) for "subsection (2) applies" substitute " subsections (2) and (2A) apply ".

(3) In section 52 after subsection (2) insert—

"(2A) The Secretary of State may authorise the applicant to serve a notice on a person mentioned in subsection (3) requiring the person ("the recipient") to give to the applicant in writing the name and address of any person the recipient believes is a person who, if the order sought by the application or proposed application were to be made and fully implemented, would or might be entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of the use of the land once the order has been implemented,

to make a relevant claim."

(4) In section 52(4), (6) and (7) after "subsection (2)" insert " or (2A) ".

(5) In section 52 after subsection (5) insert—

"(5A) A notice under subsection (2A) must explain the circumstances in which a person would or might be entitled as mentioned in that subsection."

(6) In section 52(10) for "(2) and (3)" substitute " (2) to (3) ".

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(7) In section 52 after subsection (11) insert—

"(12) In subsection (3) as it applies for the purposes of subsection (2A) "the land" also includes any relevant affected land (see subsection (13)).

(13) Where the applicant believes that, if the order sought by the application or proposed application were to be made and fully implemented, there would or might be persons entitled—

(a) as a result of the implementing of the order,

(b) as a result of the order having been implemented, or

(c) as a result of the use of the land once the order has been implemented,

to make a relevant claim in respect of any land or in respect of an interest in any land, that land is "relevant affected land" for the purposes of subsection (12).

(14) In this section "relevant claim" means—

(a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for compulsory purchase of land or not made for injurious affection resulting from compulsory purchase);

(b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);

(c) a claim under section 152(3)."

(8) In section 44(6) (meaning of "relevant claim" in section 44(4)) after paragraph (b) insert ";

(c) a claim under section 152(3)."

(9) In section 57(6) (meaning of "relevant claim" in section 57(4)) after paragraph (b) insert ";

(c) a claim under section 152(3)."

(10) In Schedule 12 (application of Act to Scotland: modifications) in paragraph 6 (application of section 52) after sub-paragraph (c) insert—

"(d) in subsection (14) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42);", and

(e) in subsection (14)(b) the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973."

VALID FROM 01/04/2012

136 Rights of entry for surveying etc in connection with applications

(1) The Planning Act 2008 is amended as follows.

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(2) In section 53(1) (person may be authorised to enter land for the purpose of surveying and taking levels of it) after "taking levels of it" insert " , or in order to facilitate compliance with the provisions mentioned in subsection (1A), ".

(3) In section 53 after subsection (1) insert—

"(1A) Those provisions are any provision of or made under an Act for the purpose of implementing—

(a) Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time,

(b) Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time, or

(c) any EU instrument from time to time replacing all or any part of either of those Directives."

(4) Omit section 53(2)(b) and (c) (until proposed application is made, entry for surveying may be authorised only if compulsory acquisition may be involved and section 42 has been complied with).

(5) In section 53 after subsection (3) insert—

"(3A) Power conferred by subsection (1) for the purpose of complying with the provisions mentioned in subsection (1A) includes power to take, and process, samples of or from any of the following found on, in or over the land—

(a) water,

(b) air,

(c) soil or rock,

(d) its flora,

(e) bodily excretions, or dead bodies, of non-human creatures, or

(f) any non-living thing present as a result of human action."

(6) In section 54(1) (application of section 53(1) to (3) to Crown land) for "to (3)" substitute " to (3A) ".

(7) In paragraph 7 of Schedule 12 (modifications of section 53 for the purposes of its application to Scotland) before sub-paragraph (a) insert—

"(za) in subsection (1A), the reference to an Act included an Act of the Scottish Parliament,".

VALID FROM 01/04/2012

137 Acceptance of applications for development consent

(1) The Planning Act 2008 is amended as follows.

(2) In section 55(3) (conditions for acceptance of application) omit paragraphs (b) and (d) (application may be accepted only if it complies with requirements as to form

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and contents and with any standards set, and gives reasons for any failure to follow applicable guidance).

(3) In section 55(3) after paragraph (e) insert “, and

(f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.”

(4) In section 55 after subsection (5) insert—

“(5A) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f), must have regard to the extent to which—

(a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5), and

(b) any applicable guidance given under section 37(4) has been followed in relation to the application.”

(5) In section 37(3) (requirements as to form and contents of application) after “must” insert “ , so far as necessary to secure that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory ”.

138 Procedural changes relating to applications for development consent

(1) The Planning Act 2008 is amended as follows.

(2) In section 56(2) (persons to be notified of the acceptance of an application for an order granting development consent) for paragraph (b) (relevant local authorities under section 102(5)) substitute—

“(b) each local authority that is within section 56A,”.

(3) After section 56 insert—

“**56A Local authorities for the purposes of sections 56(2)(b) and 60(2)(a)**

(1) A local authority is within this section if the land is in the authority's area.

(2) A local authority (“A”) is within this section if—

(a) the land is in the area of another local authority (“B”),

(b) B is a unitary council or a lower-tier district council, and

(c) any part of the boundary of A's area is also a part of the boundary of B's area.

(3) If the land is in the area of an upper-tier county council (“C”), a local authority (“D”) is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.

(4) In this section—

“the land” means the land to which the application concerned relates or any part of that land;

“local authority” has the meaning given in section 102(8);

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"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

(4) In section 60(2) (persons who the Commission must invite to submit local impact reports) for paragraph (a) (relevant local authorities under section 102(5)) substitute—

"(a) each local authority that is within section 56A, and".

(5) In section 88 (initial assessment of issues, and preliminary meeting)—

(a) in subsection (3) (persons who must be invited to preliminary meeting) omit the "and" at the end of paragraph (a),

(b) in that subsection after paragraph (b) insert—

"(c) each statutory party, and

(d) each local authority that is within section 88A,", and

(c) after that subsection insert—

"(3A) In subsection (3)(c) "statutory party" means a person specified in, or of a description specified in, regulations made by the Secretary of State."

(6) After section 88 insert—

"**88A Local authorities for the purposes of section 88(3)(d)**

(1) A local authority ("A") is within this section if—

(a) the land is in the area of another local authority ("B"),

(b) B is a unitary council or a lower-tier district council, and

(c) any part of the boundary of A's area is also a part of the boundary of B's area.

(2) If the land is in the area of an upper-tier county council ("C"), a local authority ("D") is within this section if—

(a) D is not a lower-tier district council, and

(b) any part of the boundary of D's area is also part of the boundary of C's area.

(3) In this section—

"the land" means the land to which the application relates or any part of that land;

"local authority" has the meaning given in section 102(8);

"lower-tier district council" means a district council in England for an area for which there is a county council;

"unitary council" means a local authority that is not an upper-tier county council, a lower-tier district council, a National Park authority or the Broads Authority;

"upper-tier county council" means a county council in England for each part of whose area there is a district council."

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(7) In section 89 (Examining authority's decisions about how application is to be examined and the notification of those decisions to parties) after subsection (2) insert—

"(2A) Upon making the decisions required by subsection (1), the Examining authority must inform each person mentioned in section 88(3)(c) and (d)—

(a) of those decisions, and

(b) that the person may notify the Examining authority in writing that the person is to become an interested party."

(8) In section 102 (interpretation of Chapter 4: "interested party" and other expressions)—

(a) in subsection (1) for paragraph (b) (statutory party is interested party) substitute—

"(aa) the person has been notified of the acceptance of the application in accordance with section 56(2)(d),

(ab) the Examining authority has under section 102A decided that it considers that the person is within one or more of the categories set out in section 102B,",

(b) in subsection (1) for paragraph (c) (relevant local authority is interested party) insert—

"(c) the person is a local authority in whose area the land is located,

(ca) the person—

(i) is mentioned in section 88(3)(c) or (d), and

(ii) has notified the Examining authority as mentioned in section 89(2A)(b),",

(c) after subsection (1) (definition of interested party) insert—

"(1ZA) But a person ceases to be an "interested party" for the purposes of this Chapter upon notifying the Examining authority in writing that the person no longer wishes to be an interested party.",

(d) omit subsection (3) (definition of statutory party),

(e) omit subsections (5) to (7) (which further define the local authorities that are relevant local authorities), and

(f) in subsection (8) (definition of local authority) for "subsections (5) to (7)" substitute " subsection (1)(c) ".

(9) After section 102 insert—

"**102A Persons in certain categories may ask to become interested parties etc**

(1) Subsection (2) applies if—

(a) a person makes a request to the Examining authority to become an interested party,

(b) the request states that the person claims to be within one or more of the categories set out in section 102B,

(c) the person has not been notified of the acceptance of the application in accordance with section 56(2)(d), and

(d) the applicant has issued a certificate under section 58 in relation to the application.

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(2) The Examining authority must decide whether it considers that the person is within one or more of the categories set out in section 102B.

(3) If the Examining authority decides that it considers that the person is within one or more of the categories set out in section 102B, the Examining authority must notify the person, and the applicant, that the person has become an interested party under section 102(1)(ab).

(4) If the Examining authority thinks that a person might successfully make a request mentioned in subsection (1)(a), the Examining authority may inform the person about becoming an interested party under section 102(1)(ab).

But the Examining authority is under no obligation to make enquiries in order to discover persons who might make such a request.

102B Categories for the purposes of section 102A

(1) A person is within Category 1 if the person is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land.

(2) A person is within Category 2 if the person—
- (a) is interested in the land, or
- (b) has power—
  - (i) to sell and convey the land, or
  - (ii) to release the land.

(3) An expression, other than "the land", that appears in subsection (2) of this section and also in section 5(1) of the Compulsory Purchase Act 1965 has in subsection (2) the meaning that it has in section 5(1) of that Act.

(4) A person is within Category 3 if, should the order sought by the application be made and fully implemented, the person would or might be entitled—
- (a) as a result of the implementing of the order,
- (b) as a result of the order having been implemented, or
- (c) as a result of use of the land once the order has been implemented,

to make a relevant claim.

(5) In subsection (4) "relevant claim" means—
- (a) a claim under section 10 of the Compulsory Purchase Act 1965 (compensation where satisfaction not made for the taking, or injurious affection, of land subject to compulsory purchase);
- (b) a claim under Part 1 of the Land Compensation Act 1973 (compensation for depreciation of land value by physical factors caused by use of public works);
- (c) a claim under section 152(3).

(6) In this section "the land" means the land to which the application relates or any part of that land."

(10) In Schedule 12 (application of Act to Scotland: modifications) after paragraph 9 insert—

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"9A Section 102B applies as if—

(a) in subsection (2)(b), the words from "or" to the end were omitted,

(b) in subsection (3), references to section 5(1) of the Compulsory Purchase Act 1965 were references to section 17 of the Lands Clauses Consolidation (Scotland) Act 1845, and

(c) in subsection (5)—

(i) for paragraph (a) there were substituted—

"(a) a claim arising by virtue of paragraph 1 of the Second Schedule to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947"; and

(ii) in paragraph (b), the reference to Part 1 of the Land Compensation Act 1973 were a reference to Part 1 of the Land Compensation (Scotland) Act 1973."

Commencement Information

I59 S. 138(5) in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 2(c)**

VALID FROM 01/04/2012

139 Timetables for reports and decisions on applications for development consent

(1) The Planning Act 2008 is amended as follows.

(2) In section 98(3) (Examining authority must report on application within 3 months beginning with deadline for completing its examination) for the words from "beginning" onwards substitute "beginning with—

(a) the deadline for completion of its examination of the application, or

(b) (if earlier) the end of the day on which it completes the examination."

(3) In section 107(1) (which provides for the application to be decided within 3 months of the start day but is amended by this Act to provide for decision within 3 months of the deadline under section 98(3))—

(a) for "with the" substitute "with—

(a) the", and

(b) at the end insert ", or

(b) (if earlier) the end of the day on which the Secretary of State receives a report on the application under section 74(2)(b) or 83(1)(b)."

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VALID FROM 01/04/2012

140 Development consent subject to requirement for further approval

In section 120(2) of the Planning Act 2008 (provision relating to requirements that may be included in order granting development consent)—

(a) after "in particular include" insert "—

(a)",

and

(b) after "development" insert ";

(b) requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a)".

VALID FROM 01/04/2012

141 Local authority, statutory undertakers' and National Trust land

(1) The Planning Act 2008 is amended as follows.

(2) In section 128(3) (order authorising compulsory acquisition of local authority or statutory undertakers' land subject to special parliamentary procedure if representation made by the authority or statutory undertakers and not withdrawn)—

(a) after paragraph (a) (but before the "and" at the end of that paragraph) insert—

"(aa) the representation contains an objection to the compulsory acquisition of the land,", and

(b) in paragraph (b) (condition that representation has not been withdrawn) for "representation" substitute " objection ".

(3) In section 130(3) (order authorising compulsory acquisition of certain National Trust land subject to special parliamentary procedure if representation made by National Trust and not withdrawn)—

(a) after paragraph (a) (but before the "and" at the end of that paragraph) insert—

"(aa) the representation contains an objection to the compulsory acquisition of the land,", and

(b) in paragraph (b) (condition that representation has not been withdrawn) for "representation" substitute " objection ".

142 Changes to notice requirements for compulsory acquisition

(1) Section 134 of the Planning Act 2008 (notice of authorisation of compulsory acquisition) is amended as follows.

(2) In subsection (3) (steps the prospective purchaser must take after order granting development consent is made that includes provision authorising compulsory acquisition)—

(a) before paragraph (a) insert—

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"(za) make a copy of the order available, at a place in the vicinity of the land, for inspection by the public at all reasonable hours,", and

(b) in paragraph (a) omit "and a copy of the order".

(3) In subsection (7) (contents of a compulsory acquisition notice) before the "and" at the end of paragraph (c) insert—

"(ca) stating where and when a copy of the order is available for inspection in accordance with subsection (3)(za),".

(4) Omit subsection (8) (compulsory acquisition notice affixed to object on or near the order land to say where order granting development consent can be inspected).

Commencement Information

I60 S. 142(3) in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 2(d)**

CHAPTER 7

OTHER PLANNING MATTERS

143 Applications for planning permission: local finance considerations

(1) Section 70 of the Town and Country Planning Act 1990 (determination of applications for planning permission: general considerations) is amended as follows.

(2) In subsection (2) (local planning authority to have regard to material considerations in dealing with applications) for the words from "to the provisions" to the end substitute "to—

(a) the provisions of the development plan, so far as material to the application,

(b) any local finance considerations, so far as material to the application, and

(c) any other material considerations."

(3) After subsection (2) insert—

"(2A) Subsection (2)(b) does not apply in relation to Wales."

(4) After subsection (3) insert—

"(4) In this section—

"local finance consideration" means—

(a) a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown, or

(b) sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"relevant authority" means—

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(a) a district council;
(b) a county council in England;
(c) the Mayor of London;
(d) the council of a London borough;
(e) a Mayoral development corporation;
(f) an urban development corporation;
(g) a housing action trust;
(h) the Council of the Isles of Scilly;
(i) the Broads Authority;
(j) a National Park authority in England;
(k) the Homes and Communities Agency; or
(l) a joint committee established under section 29 of the Planning and Compulsory Purchase Act 2004."

(5) The amendments made by this section do not alter—
(a) whether under subsection (2) of section 70 of the Town and Country Planning Act 1990 regard is to be had to any particular consideration, or
(b) the weight to be given to any consideration to which regard is had under that subsection.

144 Application of this Part to the Crown

An amendment made by this Part in—
(a) the Town and Country Planning Act 1990,
(b) the Planning (Listed Buildings and Conservation Areas) Act 1990,
(c) the Planning and Compulsory Purchase Act 2004, or
(d) the Planning Act 2008,
binds the Crown.

PART 7

HOUSING

CHAPTER 1

ALLOCATION AND HOMELESSNESS

Allocation

145 Allocation of housing accommodation

(1) Section 159 of the Housing Act 1996 (allocation of housing accommodation) is amended as follows.

(2) After subsection (4) insert—

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"(4A) Subject to subsection (4B), the provisions of this Part do not apply to an allocation of housing accommodation by a local housing authority in England to a person who is already—

(a) a secure or introductory tenant, or

(b) an assured tenant of housing accommodation held by a private registered provider of social housing or a registered social landlord.

(4B) The provisions of this Part apply to an allocation of housing accommodation by a local housing authority in England to a person who falls within subsection (4A)(a) or (b) if—

(a) the allocation involves a transfer of housing accommodation for that person,

(b) the application for the transfer is made by that person, and

(c) the authority is satisfied that the person is to be given reasonable preference under section 166A(3)."

(3) In subsection (5) after "accommodation" (in the first place it occurs) insert " by a local housing authority in Wales ".

Commencement Information

I61 S. 145 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(j)** (with arts. 6, 7, arts. 9-11)

146 Allocation only to eligible and qualifying persons: England

(1) In the Housing Act 1996 before section 160A insert—

"160ZA **Allocation only to eligible and qualifying persons: England**

(1) A local housing authority in England shall not allocate housing accommodation—

(a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (2) or (4), or

(b) to two or more persons jointly if any of them is a person mentioned in paragraph (a).

(2) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is ineligible for an allocation of housing accommodation by a local housing authority in England unless he is of a class prescribed by regulations made by the Secretary of State.

(3) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).

(4) The Secretary of State may by regulations prescribe other classes of persons from abroad who are ineligible to be allocated housing accommodation by local housing authorities in England.

(5) Nothing in subsection (2) or (4) affects the eligibility of a person who falls within section 159(4B).

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(6) Except as provided by subsection (1), a person may be allocated housing accommodation by a local housing authority in England (whether on his application or otherwise) if that person—
  (a) is a qualifying person within the meaning of subsection (7), or
  (b) is one of two or more persons who apply for accommodation jointly, and one or more of the other persons is a qualifying person within the meaning of subsection (7).

(7) Subject to subsections (2) and (4) and any regulations under subsection (8), a local housing authority may decide what classes of persons are, or are not, qualifying persons.

(8) The Secretary of State may by regulations—
  (a) prescribe classes of persons who are, or are not, to be treated as qualifying persons by local housing authorities in England, and
  (b) prescribe criteria that may not be used by local housing authorities in England in deciding what classes of persons are not qualifying persons.

(9) If a local housing authority in England decide that an applicant for housing accommodation—
  (a) is ineligible for an allocation by them by virtue of subsection (2) or (4), or
  (b) is not a qualifying person,

  they shall notify the applicant of their decision and the grounds for it.

(10) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

(11) A person who is not being treated as a qualifying person may (if he considers that he should be treated as a qualifying person) make a fresh application to the authority for an allocation of housing accommodation by them.”

(2) Section 160A (allocation only to eligible persons) is amended as follows—
  (a) in the heading after “persons” insert “ : Wales ”,
  (b) in subsection (1) after “authority” insert “ in Wales ”,
  (c) in subsection (2) after “authority” insert “ in Wales ”,
  (d) in subsection (3) after “authority” insert “ in Wales ”,
  (e) in subsection (5)—
    (i) after “authorities” insert “ in Wales ”,
    (ii) after “authority” insert “ in Wales ”,
  (f) in subsection (6) after “authority” insert “ in Wales ”,
  (g) in subsection (7) after “authority” insert “ in Wales ”,
  (h) in subsection (9) after “authority” insert “ in Wales ”, and
  (i) in subsection (11) after “authority” insert “ in Wales ”.

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I62 S. 146 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(k)** (with arts. 6, 7, arts. 9-11)

147 Allocation schemes

(1) The Housing Act 1996 is amended as follows.

(2) In section 166 (applications for housing accommodation)—

(a) after subsection (1) insert—

"(1A) A local housing authority in England shall secure that an applicant for an allocation of housing accommodation is informed that he has the rights mentioned in section 166A(9).", and"

(b) in subsection (2) after "authority" insert " in Wales ".

(3) For the heading before section 167 substitute " Allocation schemes ".

(4) Before section 167 insert—

"166A **Allocation in accordance with allocation scheme: England**

(1) Every local housing authority in England must have a scheme (their "allocation scheme") for determining priorities, and as to the procedure to be followed, in allocating housing accommodation.

For this purpose "procedure" includes all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are taken.

(2) The scheme must include a statement of the authority's policy on offering people who are to be allocated housing accommodation—

(a) a choice of housing accommodation; or

(b) the opportunity to express preferences about the housing accommodation to be allocated to them.

(3) As regards priorities, the scheme shall, subject to subsection (4), be framed so as to secure that reasonable preference is given to—

(a) people who are homeless (within the meaning of Part 7);

(b) people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);

(c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;

(d) people who need to move on medical or welfare grounds (including any grounds relating to a disability); and

(e) people who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

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The scheme may also be framed so as to give additional preference to particular descriptions of people within this subsection (being descriptions of people with urgent housing needs).

(4) People are to be disregarded for the purposes of subsection (3) if they would not have fallen within paragraph (a) or (b) of that subsection without the local housing authority having had regard to a restricted person (within the meaning of Part 7).

(5) The scheme may contain provision for determining priorities in allocating housing accommodation to people within subsection (3); and the factors which the scheme may allow to be taken into account include—
- (a) the financial resources available to a person to meet his housing costs;
- (b) any behaviour of a person (or of a member of his household) which affects his suitability to be a tenant;
- (c) any local connection (within the meaning of section 199) which exists between a person and the authority's district.

(6) Subject to subsection (3), the scheme may contain provision about the allocation of particular housing accommodation—
- (a) to a person who makes a specific application for that accommodation;
- (b) to persons of a particular description (whether or not they are within subsection (3)).

(7) The Secretary of State may by regulations—
- (a) specify further descriptions of people to whom preference is to be given as mentioned in subsection (3), or
- (b) amend or repeal any part of subsection (3).

(8) The Secretary of State may by regulations specify factors which a local housing authority in England must not take into account in allocating housing accommodation.

(9) The scheme must be framed so as to secure that an applicant for an allocation of housing accommodation—
- (a) has the right to request such general information as will enable him to assess—
  - (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given preference by virtue of subsection (3)); and
  - (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him;
- (b) has the right to request the authority to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him; and
- (c) has the right to request a review of a decision mentioned in paragraph (b), or in section 160ZA(9), and to be informed of the decision on the review and the grounds for it.

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(10) As regards the procedure to be followed, the scheme must be framed in accordance with such principles as the Secretary of State may prescribe by regulations.

(11) Subject to the above provisions, and to any regulations made under them, the authority may decide on what principles the scheme is to be framed.

(12) A local housing authority in England must, in preparing or modifying their allocation scheme, have regard to—

(a) their current homelessness strategy under section 1 of the Homelessness Act 2002,

(b) their current tenancy strategy under section 150 of the Localism Act 2011, and

(c) in the case of an authority that is a London borough council, the London housing strategy.

(13) Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must—

(a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and

(b) afford those persons a reasonable opportunity to comment on the proposals.

(14) A local housing authority in England shall not allocate housing accommodation except in accordance with their allocation scheme."

(5) Section 167 (allocation in accordance with allocation scheme) is amended as follows—

(a) in the heading after "scheme" insert " : Wales ",

(b) in subsection (1) after "authority" insert " in Wales ",

(c) in subsection (4) after "authority" insert " in Wales ",

(d) in subsection (7) after "authority" insert " in Wales ", and

(e) in subsection (8) after "authority" insert " in Wales ".

(6) In section 172(2) (regulations) before "167(3)" insert " 166A(7) or ".

(7) In section 174 (index of defined expressions: Part VI) in the entry for "allocation scheme" before "167" insert " 166A and ".

Commencement Information

I63 S. 147(1)(6) in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(l)** (with arts. 6, 7, arts. 9-11)

I64 S. 147(2)(3)(4)(5) in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(k)** (with arts. 6, 7, arts. 9-11)

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VALID FROM 09/11/2012

Homelessness

148 Duties to homeless persons

(1) Section 193 of the Housing Act 1996 (duty to persons with priority need who are not homeless intentionally) is amended as follows.

(2) Omit subsection (3A).

(3) For subsection (5) substitute—

"(5) The local housing authority shall cease to be subject to the duty under this section if—

(a) the applicant, having been informed by the authority of the possible consequence of refusal or acceptance and of the right to request a review of the suitability of the accommodation, refuses an offer of accommodation which the authority are satisfied is suitable for the applicant,

(b) that offer of accommodation is not an offer of accommodation under Part 6 or a private rented sector offer, and

(c) the authority notify the applicant that they regard themselves as ceasing to be subject to the duty under this section."

(4) In subsection (7) after "refusal" insert " or acceptance ".

(5) In subsection (7AA)—

(a) omit "In a restricted case",

(b) after "informed" insert " in writing ", and

(c) in paragraph (a) for "private accommodation offer" substitute " private rented sector offer ".

(6) In subsection (7AB)—

(a) in paragraph (a) after "refusal" insert " or acceptance ", and

(b) at the end of paragraph (b) insert ", and

(c) in a case which is not a restricted case, the effect under section 195A of a further application to a local housing authority within two years of acceptance of the offer."

(7) In subsection (7AC) for "private accommodation offer" substitute " private rented sector offer ".

(8) Omit subsections (7B) to (7E).

(9) In subsection (7F)—

(a) at the end of paragraph (a) insert " or ",

(b) in paragraph (ab) for "private accommodation offer" substitute " private rented sector offer ",

(c) omit paragraph (b), and

(d) in the words following that paragraph for "it is reasonable for him to accept the offer" substitute " subsection (8) does not apply to the applicant. "

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(10) For subsection (8) substitute—

"(8) This subsection applies to an applicant if—

(a) the applicant is under contractual or other obligations in respect of the applicant's existing accommodation, and

(b) the applicant is not able to bring those obligations to an end before being required to take up the offer."

(11) After subsection (9) insert—

"(10) The appropriate authority may provide by regulations that subsection (7AC)(c) is to have effect as if it referred to a period of the length specified in the regulations.

(11) Regulations under subsection (10)—

(a) may not specify a period of less than 12 months, and

(b) may not apply to restricted cases.

(12) In subsection (10) "the appropriate authority"—

(a) in relation to local housing authorities in England, means the Secretary of State;

(b) in relation to local housing authorities in Wales, means the Welsh Ministers."

149 Duties to homeless persons: further amendments

(1) The Housing Act 1996 is amended as follows.

(2) In section 188 after subsection (1) insert—

"(1A) But if the local housing authority have reason to believe that the duty under section 193(2) may apply in relation to an applicant in the circumstances referred to in section 195A(1), they shall secure that accommodation is available for the applicant's occupation pending a decision of the kind referred to in subsection (1) regardless of whether the applicant has a priority need."

(3) In section 195—

(a) omit subsection (3A), and

(b) in subsection (4B) for "(3A) to" substitute " (4) and ".

(4) After section 195 insert—

"**195A Re-application after private rented sector offer**

(1) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA) (private rented sector offer), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority—

(a) is satisfied that the applicant is homeless and eligible for assistance, and

(b) is not satisfied that the applicant became homeless intentionally,

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the duty under section 193(2) applies regardless of whether the applicant has a priority need.

(2) For the purpose of subsection (1), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 (orders for possession on expiry or termination of assured shorthold tenancy) has been given is to be treated as homeless from the date on which that notice expires.

(3) If within two years beginning with the date on which an applicant accepts an offer under section 193(7AA), the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the local housing authority—

(a) is satisfied that the applicant is threatened with homelessness and eligible for assistance, and

(b) is not satisfied that the applicant became threatened with homelessness intentionally,

the duty under section 195(2) applies regardless of whether the applicant has a priority need.

(4) For the purpose of subsection (3), an applicant in respect of whom a valid notice under section 21 of the Housing Act 1988 has been given is to be treated as threatened with homelessness from the date on which that notice is given.

(5) Subsection (1) or (3) does not apply to a case where the local housing authority would not be satisfied as mentioned in that subsection without having regard to a restricted person.

(6) Subsection (1) or (3) does not apply to a re-application by an applicant for accommodation, or for assistance in obtaining accommodation, if the immediately preceding application made by that applicant was one to which subsection (1) or (3) applied."

(5) Section 198 (referral to another local housing authority) is amended as follows.

(6) After subsection (2) insert—

"(2ZA) The conditions for referral of the case to another authority are also met if—

(a) the application is made within the period of two years beginning with the date on which the applicant accepted an offer from the other authority under section 193(7AA) (private rented sector offer), and

(b) neither the applicant nor any person who might reasonably be expected to reside with the applicant will run the risk of domestic violence in the district of the other authority."

(7) In subsection (2A) after "(2)" insert " or (2ZA) ".

(8) In subsection (3) after "(2)" insert " , (2ZA) ".

(9) In section 202(1)(g) (right to request review of decision) for "private accommodation offer" substitute " private rented sector offer ".

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CHAPTER 2

SOCIAL HOUSING: TENURE REFORM

Tenancy strategies

150 Tenancy strategies

(1) A local housing authority in England must prepare and publish a strategy (a "tenancy strategy") setting out the matters to which the registered providers of social housing for its district are to have regard in formulating policies relating to—

(a) the kinds of tenancies they grant,

(b) the circumstances in which they will grant a tenancy of a particular kind,

(c) where they grant tenancies for a term certain, the lengths of the terms, and

(d) the circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

(2) The tenancy strategy must summarise those policies or explain where they may be found.

(3) A local housing authority must have regard to its tenancy strategy in exercising its housing management functions.

(4) A local housing authority must publish its tenancy strategy before the end of the period of 12 months beginning with the day on which this section comes into force.

(5) A local housing authority must keep its tenancy strategy under review, and may modify or replace it from time to time.

(6) If a local housing authority modifies its tenancy strategy, it must publish the modifications or the strategy as modified (as it considers appropriate).

(7) A local housing authority must—

(a) make a copy of everything published under this section available at its principal office for inspection at all reasonable hours, without charge, by members of the public, and

(b) provide (on payment if required by the authority of a reasonable charge) a copy of anything so published to any member of the public who asks for one.

(8) In this section and section 151 (preparation of tenancy strategy)—

(a) references to a registered provider of social housing for a district are to a registered provider who grants tenancies of dwelling-houses in that district, and

(b) "district", "dwelling-house" and "local housing authority" have the same meaning as in the Housing Act 1985.

Commencement Information

I65 S. 150(1)(2)(4)-(8) in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(m)** (with arts. 6, 7, arts. 9-11)

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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151 Preparation of tenancy strategy

(1) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must—

(a) send a copy of the draft strategy, or proposed modification, to every private registered provider of social housing for its district, and

(b) give the private registered provider a reasonable opportunity to comment on those proposals.

(2) Before adopting a tenancy strategy, or making a modification to it reflecting a major change of policy, the authority must also—

(a) consult such other persons as the Secretary of State may by regulations prescribe, and

(b) in the case of an authority that is a London borough council, consult the Mayor of London.

(3) The authority must, in preparing or modifying a tenancy strategy, have regard to—

(a) its current allocation scheme under section 166A of the Housing Act 1996,

(b) its current homelessness strategy under section 1 of the Homelessness Act 2002, and

(c) in the case of an authority that is a London borough council, the London housing strategy.

Commencement Information

I66 S. 151 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(n)** (with arts. 6, 7, arts. 9-11)

152 Standards about tenancies etc

In section 197 of the Housing and Regeneration Act 2008 (power of Secretary of State to give directions to regulator) in subsection (2) after paragraph (a) insert—

"(aa) tenure,".

Commencement Information

I67 S. 152 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(n)** (with arts. 6, 7, arts. 9-11)

153 Relationship between schemes and strategies

In section 3 of the Homelessness Act 2002 (homelessness strategy) after subsection (7) insert—

"(7A) In formulating or modifying a homelessness strategy, a local housing authority in England shall have regard to—

(a) its current allocation scheme under section 166A of the Housing Act 1996,

(b) its current tenancy strategy under section 150 of the Localism Act 2011, and

(c) in the case of an authority that is a London borough council, the current London housing strategy."

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Commencement Information

I68 S. 153 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(o)** (with arts. 6, 7, arts. 9-11)

Flexible tenancies

154 Flexible tenancies

After section 106A of the Housing Act 1985 insert—

"Flexible tenancies

107A Flexible tenancies

(1) For the purposes of this Act, a flexible tenancy is a secure tenancy to which any of the following subsections applies.

(2) This subsection applies to a secure tenancy if—
- (a) it is granted by a landlord in England for a term certain of not less than two years, and
- (b) before it was granted the person who became the landlord under the tenancy served a written notice on the person who became the tenant under the tenancy stating that the tenancy would be a flexible tenancy.

(3) This subsection applies to a secure tenancy if—
- (a) it becomes a secure tenancy by virtue of a notice under paragraph 4ZA(2) of Schedule 1 (family intervention tenancies becoming secure tenancies),
- (b) the landlord under the family intervention tenancy in question was a local housing authority in England,
- (c) the family intervention tenancy was granted to a person on the coming to an end of a flexible tenancy under which the person was a tenant,
- (d) the notice states that the tenancy is to become a secure tenancy that is a flexible tenancy for a term certain of the length specified in the notice, and sets out the other express terms of the tenancy, and
- (e) the length of the term specified in the notice is at least two years.

(4) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of subsection (3) is that specified in the notice under paragraph 4ZA(2) of Schedule 1.

(5) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection "statutory provision" means any provision made by or under an Act.

(6) This subsection applies to a secure tenancy if—
- (a) it is created by virtue of section 137A of the Housing Act 1996 (introductory tenancies becoming flexible tenancies), or

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(b) it arises by virtue of section 143MA of that Act (demoted tenancies becoming flexible tenancies).

107B Review of decisions relating to flexible tenancies

(1) This section applies if a person ("the prospective landlord")—
  (a) offers to grant a flexible tenancy (whether or not on the coming to an end of an existing tenancy of any kind), or
  (b) serves a notice under section 137A of the Housing Act 1996 stating that, on the coming to an end of an introductory tenancy, it will become a flexible tenancy.

(2) A person to whom the offer is made or on whom the notice is served ("the person concerned") may request a review of the prospective landlord's decision about the length of the term of the tenancy.

(3) The review may only be requested on the basis that the length of the term does not accord with a policy of the prospective landlord as to the length of the terms of the flexible tenancies it grants.

(4) A request for a review must be made before the end of—
  (a) the period of 21 days beginning with the day on which the person concerned first receives the offer or notice, or
  (b) such longer period as the prospective landlord may in writing allow.

(5) On a request being duly made to it, the prospective landlord must review its decision.

(6) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.

(7) The regulations may, in particular, make provision—
  (a) requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision, and
  (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing.

(8) The prospective landlord must notify the person concerned in writing of the decision on the review.

(9) If the decision is to confirm the original decision, the prospective landlord must also notify the person of the reasons for the decision.

(10) Regulations under this section—
  (a) may contain transitional or saving provision;
  (b) are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.

107C Termination of flexible tenancy by tenant

(1) It is a term of every flexible tenancy that the tenant may terminate the tenancy in accordance with the following provisions of this section.

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(2) The tenant must serve a notice in writing on the landlord stating that the tenancy will be terminated on the date specified in the notice.

(3) That date must be after the end of the period of four weeks beginning with the date on which the notice is served.

(4) The landlord may agree with the tenant to dispense with the requirement in subsection (2) or (3).

(5) The tenancy is terminated on the date specified in the notice or (as the case may be) determined in accordance with arrangements made under subsection (4) only if on that date—
   (a) no arrears of rent are payable under the tenancy, and
   (b) the tenant is not otherwise materially in breach of a term of the tenancy.

107D Recovery of possession on expiry of flexible tenancy

(1) Subject as follows, on or after the coming to an end of a flexible tenancy a court must make an order for possession of the dwelling-house let on the tenancy if it is satisfied that the following conditions are met.

(2) Condition 1 is that the flexible tenancy has come to an end and no further secure tenancy (whether or not a flexible tenancy) is for the time being in existence, other than a secure tenancy that is a periodic tenancy (whether or not arising by virtue of section 86).

(3) Condition 2 is that the landlord has given the tenant not less than six months' notice in writing—
   (a) stating that the landlord does not propose to grant another tenancy on the expiry of the flexible tenancy,
   (b) setting out the landlord's reasons for not proposing to grant another tenancy, and
   (c) informing the tenant of the tenant's right to request a review of the landlord's proposal and of the time within which such a request must be made.

(4) Condition 3 is that the landlord has given the tenant not less than two months' notice in writing stating that the landlord requires possession of the dwelling-house.

(5) A notice under subsection (4) may be given before or on the day on which the tenancy comes to an end.

(6) The court may refuse to grant an order for possession under this section if—
   (a) the tenant has in accordance with section 107E requested a review of the landlord's proposal not to grant another tenancy on the expiry of the flexible tenancy, and
   (b) the court is satisfied that the landlord has failed to carry out the review in accordance with provision made by or under that section or that the decision on the review is otherwise wrong in law.

(7) If a court refuses to grant an order for possession by virtue of subsection (6) it may make such directions as to the holding of a review or further review under section 107E as it thinks fit.

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(8) This section has effect notwithstanding that, on the coming to an end of the flexible tenancy, a periodic tenancy arises by virtue of section 86.

(9) Where a court makes an order for possession of a dwelling-house by virtue of this section, any periodic tenancy arising by virtue of section 86 on the coming to an end of the flexible tenancy comes to an end (without further notice and regardless of the period) in accordance with section 82(2).

(10) This section is without prejudice to any right of the landlord under a flexible tenancy to recover possession of the dwelling-house let on the tenancy in accordance with this Part.

107E Review of decision to seek possession

(1) A request for a review of a landlord's decision to seek an order for possession of a dwelling-house let under a flexible tenancy must be made before the end of the period of 21 days beginning with the day on which the notice under section 107D(3) is served.

(2) On a request being duly made to it, the landlord must review its decision.

(3) The review must, in particular, consider whether the decision is in accordance with any policy of the landlord as to the circumstances in which it will grant a further tenancy on the coming to an end of an existing flexible tenancy.

(4) The Secretary of State may by regulations make provision about the procedure to be followed in connection with a review under this section.

(5) The regulations may, in particular, make provision—
  (a) requiring the decision on the review to be made by a person of appropriate seniority who was not involved in the original decision, and
  (b) as to the circumstances in which the person concerned is entitled to an oral hearing, and whether and by whom the person may be represented at such a hearing.

(6) The landlord must notify the tenant in writing of the decision on the review.

(7) If the decision is to confirm the original decision, the landlord must also notify the tenant of the reasons for the decision.

(8) The review must be carried out, and the tenant notified, before the date specified in the notice of proceedings as the date after which proceedings for the possession of the dwelling-house may be begun.

(9) Regulations under this section—
  (a) may contain transitional or saving provision;
  (b) are to be made by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

I69 S. 154 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(p)** (with arts. 6, 7, arts. 9-11)

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VALID FROM 01/04/2012

155 Flexible tenancies: other amendments

(1) In section 83(1) of the Housing Act 1985 (proceedings for possession of dwelling-house let on a secure tenancy: notice requirements) after "section 82(1A)" insert " , other than proceedings under section 107D (recovery of possession on expiry of flexible tenancy), ".

(2) In section 84(1) of that Act (grounds and orders for possession of dwelling-house let on a secure tenancy) at the end insert " or in accordance with section 107D (recovery of possession on expiry of flexible tenancy) ".

(3) In section 97 of that Act (tenant's improvements require consent) after subsection (4) insert—

"(5) In this section "secure tenancy" does not include a secure tenancy that is a flexible tenancy."

(4) In section 99A of that Act (right to compensation for improvement) after subsection (8) insert—

"(9) In this section—

(a) "secure tenancy" does not include a secure tenancy that is a flexible tenancy, and

(b) "secure tenant" does not include a tenant under a secure tenancy that is a flexible tenancy."

(5) In section 117 of that Act (index of defined expressions: Part 4) at the appropriate place insert—

"flexible tenancy	section 107A".

(6) After section 137 of the Housing Act 1996 (introductory tenancies) insert—

"Introductory tenancies that are to become flexible tenancies

137A Introductory tenancies that are to become flexible tenancies

(1) Where this section applies, a tenancy of a dwelling-house in England that ceases to be an introductory tenancy and becomes a secure tenancy in accordance with this Chapter becomes a flexible tenancy for a term certain.

(2) This section applies if, before entering into or adopting the introductory tenancy, the person who became the landlord under the tenancy served a written notice on the person who was or became the tenant under the tenancy—

(a) stating that, on ceasing to be an introductory tenancy, the tenancy would become a secure tenancy that would be a flexible tenancy for a term certain of the length specified in the notice,

(b) specifying a period of at least two years as the length of the term of the tenancy, and

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(c) setting out the other express terms of the tenancy.

(3) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of this section is that specified in the notice under subsection (2).

(4) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection "statutory provision" means any provision made by or under an Act."

(7) After section 143M of that Act (demoted tenancies) insert—

"Demoted tenancies that are to become flexible tenancies

143MA Demoted tenancies that are to become flexible tenancies

(1) Subsection (2) applies to a demoted tenancy of a dwelling-house in England that—

(a) was created on the termination of a flexible tenancy within the meaning of section 107A of the Housing Act 1985, and

(b) ceases to be a demoted tenancy and becomes a secure tenancy in accordance with this Chapter.

(2) If the landlord has served a notice within subsection (3) on the tenant before the end of the demoted tenancy then, on ceasing to be a demoted tenancy, the tenancy becomes a secure tenancy for a term certain that is a flexible tenancy.

(3) The notice must—

(a) state that, on ceasing to be a demoted tenancy, the tenancy will become a secure tenancy that is a flexible tenancy for a term certain of the length specified in the notice,

(b) specify a period of at least two years as the length of the term of the tenancy, and

(c) set out the other express terms of the tenancy.

(4) The length of the term of a flexible tenancy that becomes such a tenancy by virtue of this section is that specified in the notice under subsection (3).

(5) The other express terms of the flexible tenancy are those set out in the notice, so far as those terms are compatible with the statutory provisions relating to flexible tenancies; and in this subsection "statutory provision" means any provision made by or under an Act."

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Other provisions relating to tenancies of social housing

VALID FROM 01/04/2012

156 Creation of tenancies of social housing

(1) In section 52 of the Law of Property Act 1925 (requirement that conveyances of land and interests in land be made by deed) in subsection (2) (exceptions) after paragraph (d) insert—

"(da) flexible tenancies;

(db) assured tenancies of dwelling-houses in England that are granted by private registered providers of social housing and are not long tenancies or shared ownership leases;".

(2) After that subsection insert—

"(3) In this section—

"assured tenancy" has the same meaning as in Part 1 of the Housing Act 1988;

"dwelling-house" has the same meaning as in Part 1 of the Housing Act 1988;

"flexible tenancy" has the meaning given by section 107A of the Housing Act 1985;

"long tenancy" means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;

"shared ownership lease" means a lease of a dwelling-house—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house."

VALID FROM 01/04/2012

157 Registration of tenancies of social housing

(1) The Land Registration Act 2002 is amended as follows.

(2) In section 3 (voluntary registration of title) after subsection (4) insert—

"(4A) A person may not make an application under subsection (2) in respect of a leasehold estate in land under a relevant social housing tenancy."

(3) In section 4 (compulsory registration of title) after subsection (5) insert—

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"(5A) Subsection (1) does not apply to the transfer or grant of a leasehold estate in land under a relevant social housing tenancy."

(4) In section 27 (dispositions required to be registered) after subsection (5) insert—

"(5A) This section does not apply to—

(a) the grant of a term of years absolute under a relevant social housing tenancy, or

(b) the express grant of an interest falling within section 1(2) of the Law of Property Act 1925, where the interest is created for the benefit of a leasehold estate in land under a relevant social housing tenancy."

(5) In section 33 (interests in respect of which notice may not be entered on the register) after paragraph (b) insert—

"(ba) an interest under a relevant social housing tenancy,".

(6) In section 132(1) (interpretation) at the appropriate places insert—

""assured tenancy" has the same meaning as in Part 1 of the Housing Act 1988;";

" "dwelling-house" has the same meaning as in Part 1 of the Housing Act 1988;";

" "flexible tenancy" has the meaning given by section 107A of the Housing Act 1985;";

" "long tenancy" means a tenancy granted for a term certain of more than 21 years, whether or not it is (or may become) terminable before the end of that term by notice given by the tenant or by re-entry or forfeiture;";

" "relevant social housing tenancy" means—

(a) a flexible tenancy, or

(b) an assured tenancy of a dwelling-house in England granted by a private registered provider of social housing, other than a long tenancy or a shared ownership lease;";

" "shared ownership lease" means a lease of a dwelling-house—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house;".

(7) In Schedule 1 (unregistered interests which override first registration) after paragraph 1 insert—

"**Relevant social housing tenancies**

1A A leasehold estate in land under a relevant social housing tenancy."

(8) In Schedule 3 (unregistered interests which override registered dispositions) after paragraph 1 insert—

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"**Relevant social housing tenancies**

1A A leasehold estate in land under a relevant social housing tenancy."

158 Secure and assured tenancies: transfer of tenancy

(1) This section applies if the tenants ("the relevant tenants") under two or more tenancies of dwelling-houses in England ("the existing tenancies") make a request in writing to the landlord under each existing tenancy asking the landlord to—

(a) permit the relevant tenant or tenants under the existing tenancy to surrender it, and

(b) grant a new tenancy of the dwelling-house let under the tenancy to another relevant tenant or other relevant tenants.

(2) The landlord must comply with the request if the following conditions are met.

(3) The first condition is that at least one of the existing tenancies is—

(a) a secure tenancy that is not a flexible tenancy, or

(b) an assured tenancy—

(i) which is not an assured shorthold tenancy, and

(ii) under which the landlord is the Regulator of Social Housing, a private registered provider of social housing or a housing trust which is a charity.

(4) The second condition is that at least one of the existing tenancies is—

(a) a secure tenancy that is a flexible tenancy, or

(b) an assured shorthold tenancy under which the landlord is the Regulator of Social Housing, a private registered provider of social housing or a housing trust which is a charity.

(5) The third condition is that the remaining existing tenancies (if any) fall within subsection (3) or (4).

(6) The fourth condition is that at least one of the existing tenancies to which subsection (3) applies was granted before the day on which this section came into force.

(7) The fifth condition is that none of the landlords under the existing tenancies has refused to comply with the request (and see further section 159).

(8) Subsection (9) applies where a relevant tenant's existing tenancy is—

(a) a secure tenancy that is not a flexible tenancy, or

(b) an assured tenancy that is not an assured shorthold tenancy.

(9) The new tenancy granted to the relevant tenant pursuant to this section must be—

(a) a secure tenancy that is not a flexible tenancy, or

(b) an assured tenancy that is not an assured shorthold tenancy,

according to the landlord's capacity to grant a tenancy of either kind.

(10) The Secretary of State may by regulations provide that this section does not apply in relation to an assured shorthold tenancy of a kind specified in the regulations.

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I70 S. 158 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(q)** (with arts. 6, 7, arts. 9-11)

VALID FROM 01/04/2012

159 Further provisions about transfer of tenancy under section 158

(1) A landlord may refuse to comply with a request under section 158 only on one or more of the grounds set out in Schedule 14 (and in that Schedule references to the new tenancy are to the tenancy that the landlord has been requested to grant under that section).

(2) If the landlord refuses to comply with the request otherwise than on one of those grounds, the landlord is treated for the purposes of section 158 as not having refused to comply with the request.

(3) A landlord may not rely on any of the grounds set out in Schedule 14 unless the landlord has, within the period of 42 days beginning with receipt of the relevant tenants' request, given each of the tenants a notice specifying the ground and giving particulars of it.

(4) The duty imposed on a landlord by section 158 is enforceable by injunction.

(5) A county court has jurisdiction to entertain any proceedings brought pursuant to subsection (4).

(6) In section 158, this section and Schedule 14—

(a) "secure tenancy" has the meaning given by section 79 of the Housing Act 1985,

(b) "flexible tenancy" has the meaning given by section 107A of that Act,

(c) "assured tenancy" and "assured shorthold tenancy" have the same meaning as in Part 1 of the Housing Act 1988, and

(d) other expressions defined in the Housing Act 1985 or the Housing Act 1988 have the same meaning as in that Act (and, if they are defined in both Acts, have the same meaning as in the Housing Act 1985).

(7) In section 160(1) of the Housing Act 1996 (cases where provisions about allocations do not apply), for the "or" at the end of paragraph (d) substitute—

"(da) is granted in response to a request under section 158 of the Localism Act 2011 (transfer of tenancy), or".

VALID FROM 01/04/2012

160 Succession to secure tenancies

(1) Before section 87 of the Housing Act 1985 insert—

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"86A **Persons qualified to succeed tenant: England**

(1) A person ("P") is qualified to succeed the tenant under a secure tenancy of a dwelling-house in England if—
  (a) P occupies the dwelling-house as P's only or principal home at the time of the tenant's death, and
  (b) P is the tenant's spouse or civil partner.

(2) A person ("P") is qualified to succeed the tenant under a secure tenancy of a dwelling-house in England if—
  (a) at the time of the tenant's death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home,
  (b) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and
  (c) P's succession is in accordance with that term.

(3) Subsection (1) or (2) does not apply if the tenant was a successor as defined in section 88.

(4) In such a case, a person ("P") is qualified to succeed the tenant if—
  (a) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and
  (b) P's succession is in accordance with that term.

(5) For the purposes of this section—
  (a) a person who was living with the tenant as the tenant's wife or husband is to be treated as the tenant's spouse, and
  (b) a person who was living with the tenant as if they were civil partners is to be treated as the tenant's civil partner.

(6) Subsection (7) applies if, on the death of the tenant, there is by virtue of subsection (5) more than one person who fulfils the condition in subsection (1)(b).

(7) Such one of those persons as may be agreed between them or as may, where there is no such agreement, be selected by the landlord is for the purpose of this section to be treated (according to whether that one of them is of the opposite sex to, or of the same sex as, the tenant) as the tenant's spouse or civil partner."

(2) In section 87 of that Act (persons qualified to succeed secure tenant)—
  (a) in the section heading at the end insert " : Wales ", and
  (b) after "secure tenancy" insert " of a dwelling-house in Wales ".

(3) Section 89 of that Act (succession to periodic tenancy) is amended as follows.

(4) After subsection (1) insert—

"(1A) Where there is a person qualified to succeed the tenant under section 86A, the tenancy vests by virtue of this section—
  (a) in that person, or

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Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) if there is more than one such person, in such one of them as may be agreed between them or as may, where there is no agreement, be selected by the landlord."

(5) In subsection (2) after "tenant" insert " under section 87 ".

(6) The amendments made by this section do not apply in relation to a secure tenancy that—

(a) was granted before the day on which this section comes into force, or

(b) came into being by virtue of section 86 of the Housing Act 1985 (periodic tenancy arising on termination of fixed term) on the coming to an end of a secure tenancy within paragraph (a).

VALID FROM 01/04/2012

161 Succession to assured tenancies

(1) Section 17 of the Housing Act 1988 (succession to assured periodic tenancy by spouse) is amended as follows.

(2) In the heading for "assured periodic tenancy by spouse" substitute " assured tenancy ".

(3) In subsection (1)—

(a) at the beginning insert " Subject to subsection (1D), ", and

(b) omit paragraph (c).

(4) After that subsection insert—

"(1A) Subject to subsection (1D), in any case where—

(a) there is an assured periodic tenancy of a dwelling-house in England under which—

(i) the landlord is a private registered provider of social housing, and

(ii) the tenant is a sole tenant,

(b) the tenant under the tenancy dies,

(c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,

(d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and

(e) there is a person whose succession is in accordance with that term,

then, on the death, the tenancy vests by virtue of this section in that person (and, accordingly, does not devolve under the tenant's will or intestacy).

(1B) Subject to subsection (1D), in any case where—

(a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—

(i) the landlord is a private registered provider of social housing, and

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(ii) the tenant is a sole tenant,

(b) the tenant under the tenancy dies, and

(c) immediately before the death, the tenant's spouse or civil partner was occupying the dwelling-house as his or her only or principal home,

then, on the death, the tenancy vests by virtue of this section in the spouse or civil partner (and, accordingly, does not devolve under the tenant's will or intestacy).

(1C) Subject to subsection (1D), in any case where—

(a) there is an assured tenancy of a dwelling-house in England for a fixed term of not less than two years under which—

(i) the landlord is a private registered provider of social housing, and

(ii) the tenant is a sole tenant,

(b) the tenant under the tenancy dies,

(c) immediately before the death, the dwelling-house was not occupied by a spouse or civil partner of the tenant as his or her only or principal home,

(d) an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy, and

(e) there is a person whose succession is in accordance with that term,

then, on the death, the tenancy vests by virtue of this section in that person (and accordingly does not devolve under the tenant's will or intestacy).

(1D) Subsection (1), (1A), (1B) or (1C) does not apply if the tenant was himself a successor as defined in subsection (2) or subsection (3).

(1E) In such a case, on the death, the tenancy vests by virtue of this section in a person ("P") (and, accordingly, does not devolve under the tenant's will or intestacy) if, and only if—

(a) (in a case within subsection (1)) the tenancy is of a dwelling-house in England under which the landlord is a private registered provider of social housing,

(b) an express term of the tenancy makes provision for a person to succeed a successor to the tenancy, and

(c) P's succession is in accordance with that term."

(5) In subsection (5) after "(1)(b)" insert " or (1B)(c) ".

(6) After subsection (5) insert—

"(6) If, on the death of the tenant, there is more than one person in whom the tenancy would otherwise vest by virtue of subsection (1A), (1C) or (1E), the tenancy vests in such one of them as may be agreed between them or, in default of agreement, as is determined by the county court.

(7) This section does not apply to a fixed term assured tenancy that is a lease of a dwelling-house—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

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(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house."

(7) The amendments made by this section do not apply in relation to an assured tenancy that—

(a) was granted before the day on which this section comes into force, or

(b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

VALID FROM 01/04/2012

162 Secure and assured tenancies: recovery of possession after tenant's death

(1) In section 90 of the Housing Act 1985 (devolution of fixed term secure tenancy) after subsection (4) insert—

"(5) The following provisions apply where a tenancy that was a secure tenancy of a dwelling-house in England—

(a) has been vested or otherwise disposed of in the course of the administration of the secure tenant's estate, and

(b) has ceased to be a secure tenancy by virtue of this section.

(6) Subject as follows, the landlord may apply to the court for an order for possession of the dwelling-house let under the tenancy.

(7) The court may not entertain proceedings for an order for possession under this section unless—

(a) the landlord has served notice in writing on the tenant—

(i) stating that the landlord requires possession of the dwelling-house, and

(ii) specifying a date after which proceedings for an order for possession may be begun, and

(b) that date has passed without the tenant giving up possession of the dwelling-house.

(8) The date mentioned in subsection (7)(a)(ii) must fall after the end of the period of four weeks beginning with the date on which the notice is served on the tenant.

(9) On an application to the court for an order for possession under this section, the court must make such an order if it is satisfied that subsection (5) applies to the tenancy.

(10) The tenancy ends when the order is executed."

(2) In Part 3 of Schedule 2 to that Act (grounds on which court may order possession of dwelling-house let on secure tenancy if reasonable and if alternative accommodation is available) after Ground 15 insert—

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"Ground 15A The dwelling-house is in England, the accommodation afforded by it is more extensive than is reasonably required by the tenant and—

(a) the tenancy vested in the tenant by virtue of section 89 (succession to periodic tenancy) or 90 (devolution of term certain) in a case where the tenant was not the previous tenant's spouse or civil partner, and

(b) notice of the proceedings for possession was served under section 83 (or, where no such notice was served, the proceedings for possession were begun) more than six months but less than twelve months after the relevant date.

For this purpose "the relevant date" is—

(a) the date of the previous tenant's death, or

(b) if the court so directs, the date on which, in the opinion of the court, the landlord (or, in the case of joint landlords, any one of them) became aware of the previous tenant's death.

The matters to be taken into account by the court in determining whether it is reasonable to make an order on this ground include—

(a) the age of the tenant,

(b) the period (if any) during which the tenant has occupied the dwelling-house as the tenant's only or principal home, and

(c) any financial or other support given by the tenant to the previous tenant."

(3) In that Part of that Schedule, in Ground 16 (vesting of tenancy in member of previous tenant's family other than his or her spouse or civil partner)—

(a) at the beginning of the first unnumbered paragraph for "The accommodation afforded by the dwelling-house" substitute " The dwelling-house is in Wales, the accommodation afforded by it ",

(b) in the first unnumbered paragraph—

(i) in paragraph (a) after "tenancy)" insert " or 90 (devolution of term certain) ", and

(ii) in paragraph (b) for "the date of the previous tenant's death" substitute " the relevant date ", and

(c) after the first unnumbered paragraph insert—

"For this purpose "the relevant date" is—

(a) the date of the previous tenant's death, or

(b) if the court so directs, the date on which, in the opinion of the court, the landlord (or, in the case of joint landlords, any one of them) became aware of the previous tenant's death."

(4) In section 7 of the Housing Act 1988 (orders for possession of assured tenancies) after subsection (6) insert—

"(6A) In the case of a dwelling-house in England, subsection (6)(a) has effect as if it also referred to Ground 7 in Part 1 of Schedule 2 to this Act."

(5) In Part 1 of Schedule 2 to that Act (grounds for possession of dwelling-houses let on assured tenancies: grounds on which court must order possession) in Ground 7 (devolution of tenancy under will or intestacy)—

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(a) in the first unnumbered paragraph, after "tenancy)" insert " , or a fixed term tenancy of a dwelling-house in England, ",

(b) in the second unnumbered paragraph—

(i) omit "periodic", and

(ii) after "period" insert " or length of term ", and

(c) after that paragraph insert—

"This ground does not apply to a fixed term tenancy that is a lease of a dwelling-house—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house."

VALID FROM 01/04/2012

163 Assured shorthold tenancy following demoted or family intervention tenancy

(1) In section 20B(2) of the Housing Act 1988 (demoted assured shorthold tenancy lasts for one year unless subsection (3) applies) after "subsection (3) applies" insert " , but see section 20C ".

(2) After section 20B of the Housing Act 1988 insert—

"**20C Assured shorthold tenancies following demoted tenancies**

(1) Subsection (2) applies if—

(a) section 20B applies to an assured shorthold tenancy of a dwelling-house in England ("the demoted tenancy"),

(b) the landlord is a private registered provider of social housing,

(c) the demoted tenancy was created by an order under section 6A made after the coming into force of section 163(2) of the Localism Act 2011,

(d) the assured tenancy that was terminated by that order was an assured shorthold tenancy that, whether or not it was a fixed term tenancy when terminated by the order, was granted for a term certain of not less than two years,

(e) apart from subsection (2), the demoted tenancy would cease to be an assured shorthold tenancy by virtue of section 20B(2) or (4), and

(f) the landlord has served a notice within subsection (3) on the tenant before the demoted tenancy ceases to be an assured shorthold tenancy by virtue of section 20B(2) or (4).

(2) The demoted tenancy does not cease to be an assured shorthold tenancy by virtue of section 20B(2) or (4), and at the time when it would otherwise cease to be an assured shorthold tenancy by virtue of section 20B(2) to (4)—

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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(a) it becomes an assured shorthold tenancy which is a fixed term tenancy for a term certain, and

(b) section 20B ceases to apply to it.

(3) The notice must—

(a) state that, on ceasing to be a demoted assured shorthold tenancy, the tenancy will become an assured shorthold tenancy which is a fixed term tenancy for a term certain of the length specified in the notice,

(b) specify a period of at least two years as the length of the term of the tenancy, and

(c) set out the other express terms of the tenancy.

(4) Where an assured shorthold tenancy becomes a fixed term tenancy by virtue of subsection (2)—

(a) the length of its term is that specified in the notice under subsection (3), and

(b) its other express terms are those set out in the notice."

(3) Before section 21 of the Housing Act 1988 insert—

"20D **Assured shorthold tenancies following family intervention tenancies**

(1) An assured tenancy that arises by virtue of a notice under paragraph 12ZA(2) of Schedule 1 in respect of a family intervention tenancy is an assured shorthold tenancy if—

(a) the landlord under the assured tenancy is a private registered provider of social housing,

(b) the dwelling-house is in England,

(c) the family intervention tenancy was granted to a person on the coming to an end of an assured shorthold tenancy under which the person was a tenant, and

(d) the notice states that the family intervention tenancy is to be regarded as an assured shorthold tenancy.

(2) This section does not apply if the family intervention tenancy was granted before the coming into force of section 163(3) of the Localism Act 2011."

VALID FROM 01/04/2012

164 Assured shorthold tenancies: notice requirements

(1) In section 21 of the Housing Act 1988 (recovery of possession on expiry or termination of assured shorthold tenancy) after subsection (1) insert—

"(1A) Subsection (1B) applies to an assured shorthold tenancy of a dwelling-house in England if—

(a) it is a fixed term tenancy for a term certain of not less than two years, and

(b) the landlord is a private registered provider of social housing.

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(1B) The court may not make an order for possession of the dwelling-house let on the tenancy unless the landlord has given to the tenant not less than six months' notice in writing—

(a) stating that the landlord does not propose to grant another tenancy on the expiry of the fixed term tenancy, and

(b) informing the tenant of how to obtain help or advice about the notice and, in particular, of any obligation of the landlord to provide help or advice."

(2) The amendments made by this section do not apply in relation to an assured shorthold tenancy that—

(a) was granted before the day on which this section comes into force, or

(b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

165 Assured shorthold tenancies: rights to acquire

(1) Section 180 of the Housing and Regeneration Act 2008 (social housing: right to acquire) is amended as follows.

(2) In subsection (2)(a) (conditions to be met in relation to tenancies) omit "an assured shorthold tenancy or".

(3) After subsection (2) insert—

"(2A) The Secretary of State may by regulations provide that an assured shorthold tenancy of a description specified in the regulations is not a tenancy within subsection (2)."

(4) The amendments made by this section do not apply in relation to an assured shorthold tenancy that—

(a) was granted before the day on which this section comes into force, or

(b) came into being by virtue of section 5 of the Housing Act 1988 (periodic tenancy arising on termination of fixed term) on the coming to an end of an assured shorthold tenancy within paragraph (a).

Commencement Information

I71 S. 165 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(r)** (with arts. 6, 7, arts. 9-11)

VALID FROM 01/04/2012

166 Repairing obligations in leases of seven years or more

In section 13 of the Landlord and Tenant Act 1985 (leases to which the provisions about repairing obligations in section 11 of that Act apply) after subsection (1) insert—

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"(1A) Section 11 also applies to a lease of a dwelling-house in England granted on or after the day on which section 166 of the Localism Act 2011 came into force which is—

(a) a secure tenancy for a fixed term of seven years or more granted by a person within section 80(1) of the Housing Act 1985 (secure tenancies: the landlord condition), or

(b) an assured tenancy for a fixed term of seven years or more that—

(i) is not a shared ownership lease, and

(ii) is granted by a private registered provider of social housing.

(1B) In subsection (1A)—

"assured tenancy" has the same meaning as in Part 1 of the Housing Act 1988;

"secure tenancy" has the meaning given by section 79 of the Housing Act 1985; and

"shared ownership lease" means a lease—

(a) granted on payment of a premium calculated by reference to a percentage of the value of the dwelling-house or of the cost of providing it, or

(b) under which the lessee (or the lessee's personal representatives) will or may be entitled to a sum calculated by reference, directly or indirectly, to the value of the dwelling-house."

CHAPTER 3

HOUSING FINANCE

VALID FROM 01/10/2013

167 Abolition of Housing Revenue Account subsidy in England

Schedule 15 (abolition of Housing Revenue Account subsidy in England) has effect.

168 Settlement payments

(1) The Secretary of State may make a determination providing for the calculation of the amount of a payment (referred to in this Chapter as a "settlement payment") in relation to each local housing authority in England that keeps a Housing Revenue Account.

(2) A determination under this section may, in particular, provide for all or part of the amount to be calculated in accordance with a formula or formulae.

(3) In determining a formula for this purpose, the Secretary of State may, in particular, include variables framed by reference to—

(a) the amounts (if any) that, during such period and on such assumptions as the Secretary of State may determine, are to be treated as amounts that will be

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received by the local housing authority in connection with the exercise of its functions relating to houses and other property within its Housing Revenue Account,

(b) the amounts (if any) that, during such period and on such assumptions as the Secretary of State may determine, are to be treated as amounts that will be paid by the authority in connection with the exercise of those functions, and

(c) the amount (if any) that, at such time and on such assumptions as the Secretary of State may determine, is to be treated as the amount of debt held by the authority in connection with the exercise of those functions.

(4) A determination under this section may provide for an assumption to be made about an amount whether or not the assumption is, or is likely to be, borne out by events.

(5) A determination under this section may provide that the effect of the calculation in relation to a local housing authority is that—

(a) a settlement payment must be made by the Secretary of State to the local housing authority,

(b) a settlement payment must be made by the local housing authority to the Secretary of State, or

(c) the amount of a settlement payment in relation to that authority is nil.

169 Further payments

(1) This section applies if a settlement payment has been made in respect of a local housing authority.

(2) The Secretary of State may from time to time make a determination that a further payment calculated in accordance with the determination must be made—

(a) by the Secretary of State to the local housing authority, or

(b) by the local housing authority to the Secretary of State.

(3) The Secretary of State may make a determination under this section only if there has been a change in any matter that was taken into account in making—

(a) the determination relating to the settlement payment or a calculation under that determination, or

(b) a previous determination under this section relating to the local housing authority or a calculation under that determination.

(4) A determination under this section may be varied or revoked by a subsequent determination.

170 Further provisions about payments

(1) A payment under this Chapter must be made in such instalments, at such times and in accordance with such arrangements as the Secretary of State may determine.

(2) Arrangements under subsection (1) may include arrangements for payments to be made—

(a) by a person or body other than the Secretary of State to a local housing authority, or

(b) to a person or body other than the Secretary of State by a local housing authority.

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(3) A payment under this Chapter by a local housing authority must be accompanied by such information as the Secretary of State may require.

(4) The Secretary of State may charge a local housing authority interest, at such rates and for such periods as the Secretary of State may determine, on any sum payable by the local housing authority under this Chapter that is not paid by a time determined under this section for its payment.

(5) The Secretary of State may charge a local housing authority an amount equal to any additional costs incurred by the Secretary of State as a result of any sum payable by the local housing authority under this Chapter not being paid by a time determined under this section for its payment.

(6) A payment under this Chapter other than a payment under subsection (4) or (5)—
   (a) if made by a local housing authority, is to be treated by the authority as capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003;
   (b) if made to a local housing authority, is to be treated by the authority as a capital receipt for the purposes of that Chapter.

(7) A determination under this Chapter may require a payment to a local housing authority made under this Chapter to be used by the authority for a purpose specified in the determination.

(8) A local housing authority to which such a requirement applies must comply with it.

(9) In Schedule 4 to the Local Government and Housing Act 1989 (the keeping of the housing revenue account) in Part 2 (debits to the account) after item 5 insert— " *Item 5A: sums payable under section 170 of the Localism Act 2011* Sums payable for the year to the Secretary of State under section 170(4) or (5) of the Localism Act 2011 (interest etc charged as a result of late payment of settlement payments etc). "

171 Limits on indebtedness

(1) The Secretary of State may from time to time make a determination providing for the calculation in relation to each local housing authority in England that keeps a Housing Revenue Account of—
   (a) the amount of housing debt that, at such time and on such assumptions as the Secretary of State may determine, is to be treated as held by the authority, and
   (b) the maximum amount of such housing debt that the authority may hold.

(2) A determination under this section may, in particular, provide for all or part of an amount to be calculated in accordance with a formula or formulae.

(3) A determination under this section may provide for assumptions to be made in making a calculation whether or not those assumption are, or are likely to be, borne out by events.

(4) A determination under this section may be varied or revoked by a subsequent determination.

(5) A local housing authority may not hold debt in contravention of a determination under this section.

(6) In this section "housing debt", in relation to a local housing authority, means debt—

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(a) which is held by the authority in connection with the exercise of its functions relating to houses and other property within its Housing Revenue Account, and

(b) interest and other charges in respect of which are required to be carried to the debit of that account.

172 Power to obtain information

(1) A local housing authority in England must supply the Secretary of State with such information as the Secretary of State may specify for the purposes of enabling the Secretary of State to exercise functions under this Chapter.

(2) The Secretary of State may exercise the powers under this section either generally or in relation to a particular case.

(3) If a local housing authority fails to comply with this section before the end of such period as the Secretary of State may specify, the Secretary of State may exercise functions under this Chapter on the basis of such assumptions and estimates as the Secretary of State thinks fit.

173 Determinations under this Chapter

(1) A determination under this Chapter may make different provision for different cases or descriptions of case, including different provision—

(a) for different areas,

(b) for different local housing authorities, or

(c) for different descriptions of local housing authority.

(2) Before making a determination under this Chapter that relates to all local housing authorities or a description of local housing authority, the Secretary of State must consult such representatives of local government and relevant professional bodes as the Secretary of State thinks appropriate.

(3) Before making a determination under this Chapter relating to a particular local housing authority, the Secretary of State must consult that local housing authority.

(4) As soon as practicable after making a determination under this Chapter, the Secretary of State must send a copy of the determination to the local housing authority or authorities to which it relates.

(5) Section 87(4) to (7) (electronic communications) of the Local Government and Housing Act 1989 applies to a determination under this Chapter as it applies to a determination under Part 6 of that Act.

174 Capital receipts from disposal of housing land

In section 11 of the Local Government Act 2003 (use of capital receipts by a local authority) after subsection (5) insert—

"(6) The Secretary of State and a local authority in England may enter into an agreement with the effect that a requirement imposed under subsection (2)(b) does not apply to, or is modified in its application to, capital receipts of the authority that are specified or described in the agreement."

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175 Interpretation

In this Chapter "local housing authority" has the same meaning as in the Housing Act 1985.

CHAPTER 4

HOUSING MOBILITY

176 Standards facilitating exchange of tenancies

(1) In section 193 of the Housing and Regeneration Act 2008 (power for regulator to set standards for registered providers) in subsection (2) after paragraph (g) insert—

"(ga) methods of assisting tenants to exchange tenancies,".

(2) In section 197(2) of that Act (power of Secretary of State to give directions to regulator) after paragraph (c) insert ", or

(d) methods of assisting tenants to exchange tenancies."

Commencement Information

I72 S. 176 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(s)** (with arts. 6, 7, arts. 9-11)

177 Assisting tenants of social landlords to become home owners

In section 122 of the Housing and Regeneration Act 2008 (registered providers of social housing in England: restriction on gifts and distributions to members etc) after subsection (5) (the third class of permitted payments) insert—

"(5A) Class 4 is payments which—

(a) are in accordance with the constitution of the registered provider,

(b) are paid for the benefit of tenants of the provider, and

(c) are in any particular case paid to assist the tenant to obtain other accommodation by acquiring a freehold, or long-leasehold, interest in a dwelling.

(5B) For the purposes of subsection (5A)—

"long-leasehold interest", in relation to a dwelling, means the lessee's interest under a lease of the dwelling granted, for a premium, for a term certain exceeding 21 years;

"acquiring", in relation to a long-leasehold interest in a dwelling, includes acquiring by grant and acquiring by assignment."

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CHAPTER 5

REGULATION OF SOCIAL HOUSING

178 Transfer of functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency

(1) Schedule 16 (transfer of functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency) has effect.

(2) In that Schedule—

Part 1 amends the Housing and Regeneration Act 2008 (regulation of social housing) so as to—

(a) abolish the Office for Tenants and Social Landlords ("the Office"),

(b) create the Regulation Committee of the Homes and Communities Agency ("the HCA"), and

(c) transfer the functions of the Office to the HCA acting through the Committee,

Part 2 makes consequential amendments to other enactments,

Part 3 contains provision transferring property, rights and liabilities of the Office to the HCA, and

Part 4 contains transitional and saving provisions.

Commencement Information

I73 S. 178 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(t)** (with arts. 6, 7, arts. 9-11)

VALID FROM 01/04/2012

179 Regulation of social housing

Schedule 17 (regulation of social housing) has effect.

CHAPTER 6

OTHER HOUSING MATTERS

VALID FROM 01/04/2013

Housing ombudsman

180 Housing complaints

(1) In Schedule 2 to the Housing Act 1996 (social rented sector: housing complaints) after paragraph 7 insert—

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"**Complaints must be referred by designated person unless paragraph 7B applies**

7A (1) A complaint against a social landlord is not "duly made" to a housing ombudsman under an approved scheme unless it is made in writing to the ombudsman by a designated person by way of referral of a complaint made to the designated person.

(2) Sub-paragraph (1) is subject to paragraph 7B (complaints that need not be made by way of referral).

(3) For the purposes of this paragraph "designated person" means—

(a) a member of the House of Commons,

(b) a member of the local housing authority for the district in which the property concerned is located, or

(c) a designated tenant panel (see paragraph 7C(1)) for the social landlord.

(4) Before making a referral under sub-paragraph (1), a designated person must obtain written consent from the complainant or the complainant's representative.

(5) Sub-paragraphs (6) and (7) apply if under sub-paragraph (1) a designated person refers a complaint to a housing ombudsman.

(6) If the ombudsman decides—

(a) not to investigate the complaint, or

(b) to discontinue investigation of the complaint,

the ombudsman must prepare a statement of reasons for that decision and send a copy of the statement to the designated person.

(7) If the ombudsman completes investigation of the complaint, the ombudsman must inform the designated person of—

(a) the results of the investigation, and

(b) any determination made.

(8) In sub-paragraph (3)(b) "district" in relation to a local housing authority has the same meaning as in the Housing Act 1985.

Complaints that need not be made by way of referral by designated person

7B (1) Paragraph 7A(1) does not apply in relation to a complaint against a social landlord made to a housing ombudsman under an approved scheme if the ombudsman is satisfied that—

(a) the social landlord has procedures for considering complaints against the social landlord,

(b) the matter that forms the subject of the complaint has been submitted to those procedures,

(c) those procedures have been exhausted, and

(d) the complaint has been made to the ombudsman after the end of the eight weeks beginning with the day on which those procedures were exhausted.

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(2) Paragraph 7A(1) does not apply in relation to a complaint against a social landlord made to a housing ombudsman under an approved scheme if—
  (a) the ombudsman is satisfied that a designated person—
    (i) has refused to refer the complaint to a housing ombudsman under an approved scheme, or
    (ii) has agreed to the complaint being made otherwise than by way of a referral by a designated person, and
  (b) the refusal, or agreement, is in writing or the ombudsman is satisfied that it has been confirmed in writing.

(3) Paragraph 7A(3) (meaning of "designated person") applies also for the purposes of sub-paragraph (2).

Designated tenant panels

7C (1) In paragraph 7A(3)(c) "designated tenant panel" means a group of tenants which is recognised by a social landlord for the purpose of referring complaints against the social landlord.

(2) There may be more than one designated tenant panel for a social landlord.

(3) Where a social landlord becomes a member of an approved scheme, the social landlord must give to the person administering the scheme contact details for any designated tenant panel for the social landlord.

(4) Where a group becomes a designated tenant panel for a social landlord, the social landlord must, as respects each approved scheme of which the social landlord is a member, give to the person administering the scheme contact details for the panel.

(5) Where a group ceases to be a designated tenant panel for a social landlord, the social landlord must inform the person administering each approved scheme of which the social landlord is a member.

(6) A complaint referred to a housing ombudsman under an approved scheme by a designated tenant panel for a social landlord is not affected by the group concerned ceasing to be a designated tenant panel for the social landlord.

Enforcement of a housing ombudsman's determinations

7D (1) The Secretary of State may by order make provision for, or in connection with, authorising a housing ombudsman under an approved scheme to apply to a court or tribunal for an order that a determination made by the ombudsman may be enforced as if it were an order of a court.

(2) Before the Secretary of State makes an order under sub-paragraph (1), the Secretary of State must consult—
  (a) one or more bodies appearing to the Secretary of State to represent the interests of social landlords,
  (b) one or more bodies appearing to the Secretary of State to represent the interests of other members of approved schemes,

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(c) one or more bodies appearing to the Secretary of State to represent the interests of tenants, and

(d) such other persons as the Secretary of State considers appropriate.

(3) The Secretary of State's power to make an order under sub-paragraph (1) is exercisable by statutory instrument.

(4) A statutory instrument containing an order made by the Secretary of State under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament."

(2) Section 239(2) of the Housing and Regeneration Act 2008 (regulator may award compensation if compensation awarded by housing ombudsman has not been paid) is omitted.

(3) Subsection (1), so far as it inserts paragraph 7A of Schedule 2 to the Housing Act 1996, applies only in relation to complaints made to a housing ombudsman after the coming into force of that subsection so far as it makes that insertion.

(4) Subsection (1), so far as it inserts paragraph 7D of that Schedule, applies only in relation to determinations made after the coming into force of that subsection so far as it makes that insertion.

(5) Subsection (2) applies only in relation to determinations made after the coming into force of that subsection.

181 Transfer of functions to housing ombudsman

(1) In Schedule 5 to the Local Government Act 1974 (matters not subject to investigation by a Local Commissioner)—

(a) after paragraph 5 insert—

"5A Action which—

(a) is taken by or on behalf of a local authority in its capacity as a registered provider of social housing, and

(b) is action in connection with its housing activities so far as they relate to the provision or management of social housing (and here "social housing" has the same meaning as in Part 2 of the Housing and Regeneration Act 2008).

5B In the case of a local authority which is a registered provider of social housing, action taken by or on behalf of the authority in connection with the management of dwellings owned by the authority and let on a long lease (and here "long lease" has the meaning given by section 59(3) of the Landlord and Tenant Act 1987).", and

(b) in paragraph 6 for the words from "not action" to the end substitute "—

(a) action in connection with functions in relation to social housing (and here "social housing" has the same meaning as in Part 2 of the Housing and Regeneration Act 2008), or

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(b) action in connection with functions in relation to anything other than housing."

(2) The Housing Act 1996 is amended as follows.

(3) In section 51(2) (investigation of complaints against social landlords) before paragraph (a) insert—

"(za) a local authority in England which is a registered provider of social housing,"

(4) In Schedule 2 (schemes for the investigation of housing complaints)—

(a) in paragraph 1(1) after "social landlord" insert " , other than a local housing authority, ",

(b) after paragraph 1(1) insert—

"(1A) A social landlord which is a local housing authority must be a member of an approved scheme covering, or more than one scheme which together cover—

(a) action which—

(i) is taken by or on behalf of the authority in its capacity as a registered provider of social housing, and

(ii) is action in connection with its housing activities so far as they relate to the provision or management of social housing (and here "social housing" has the same meaning as in Part 2 of the Housing and Regeneration Act 2008), and

(b) action taken by or on behalf of the authority in connection with the management of dwellings owned by the authority and let on a long lease (and here "long lease" has the meaning given by section 59(3) of the Landlord and Tenant Act 1987).", and

(c) after paragraph 11(1) insert—

"(1A) If a change in the method of calculation under sub-paragraph (1) would result in a member's subscription being more than it would otherwise be, the change may be made only if the Secretary of State approves it.

(1B) An approved scheme's total defrayable expenses for a period may be more than the scheme's total defrayable expenses for the immediately-preceding corresponding period only if the Secretary of State approves the increase.

(1C) In sub-paragraph (1B) "defrayable expenses", in relation to a scheme, means expenses of the scheme that are to be defrayed by subscriptions from members of the scheme."

(5) The Secretary of State may, in consequence of the amendments made by this section, make a scheme ("a transfer scheme") transferring property, rights and liabilities of the Commission for Local Administration in England to a person administering a scheme approved under Schedule 2 to the Housing Act 1996.

(6) The things that may be transferred under a transfer scheme include—

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(a) property, rights and liabilities that could not otherwise be transferred, and
(b) property acquired, and rights and liabilities arising, after the making of the scheme.

(7) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—
(a) create rights, or impose liabilities, in relation to property or rights transferred,
(b) make provision about the continuing effect of things done by or in relation to the transferor in respect of anything transferred,
(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred,
(d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee,
(e) make provision for the shared ownership or use of property, and
(f) if the TUPE regulations do not apply in relation to the transfer, make provision which is the same or similar.

(8) A transfer scheme may provide—
(a) for modification by agreement, and
(b) for modifications to have effect from the date when the original scheme came into effect.

(9) In this section—

"TUPE regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246),

references to rights and liabilities include rights and liabilities relating to a contract of employment, and

references to the transfer of property include the grant of a lease.

(10) Subsection (1) applies only in relation to complaints made to a Local Commissioner after the coming into force of that subsection.

(11) Subsection (3) or (4) applies only in relation to complaints made to a housing ombudsman after the coming into force of that subsection.

182 Transfer of functions to housing ombudsman: supplementary

(1) The Local Government Act 1974 is amended in accordance with subsections (2) to (7).

(2) In section 33 (consultation between Local Commissioners and other Commissioners)—
(a) in subsection (1) after paragraph (b) insert—

"(bza) by a housing ombudsman under the Housing Act 1996,",

(b) in subsection (2) after "Parliamentary Commissioner," insert " a housing ombudsman, ",
(c) after subsection (3) insert—

"(3A) If at any stage in the course of conducting an investigation under the Housing Act 1996, a housing ombudsman forms the opinion that the

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complaint relates partly to a matter which could be the subject of an investigation under this Part of the Act, the ombudsman must consult with the appropriate Local Commissioner about the complaint and, if the ombudsman considers it necessary, inform the person initiating the complaint of the steps necessary to initiate a complaint under this Part of this Act.",

(d) in subsection (4) after "subsection (3)" insert " or (3A) ", and

(e) in that subsection after "1967" insert " or under the Housing Act 1996 ".

(3) Section 33ZA (collaborative working between Local Commissioners and other Commissioners) is amended as follows.

(4) In subsection (1) (power to conduct joint investigations)—

(a) in paragraph (c) for "both" substitute " a housing ombudsman ", and

(b) for the words from "jointly" to the end substitute " jointly with any also-involved ombudsman or jointly with any two or more also-involved ombudsmen. "

(5) After subsection (1) insert—

"(1A) In subsection (1) "also-involved ombudsman" means a person within subsection (1)(a), (b) or (c) who, in the opinion of the Local Commissioner concerned, has jurisdiction in relation to a matter that is included among the matters which are the subject of the Local Commissioner's investigation."

(6) In subsection (3) (power to conduct joint investigations)—

(a) in paragraph (c) for "both" substitute " a housing ombudsman ", and

(b) for the words from "jointly" to the end substitute " jointly with a person within paragraph (a), (b) or (c) who is investigating the complaint or jointly with any two or more such persons. "

(7) In section 34(1) (interpretation of Part 3) insert at the appropriate place—

""housing ombudsman" means a housing ombudsman under a scheme approved under Schedule 2 to the Housing Act 1996,".

(8) In Schedule 2 to the Housing Act 1996 (housing ombudsman schemes) after paragraph 10 insert—

"**Collaborative working with Local Commissioners**

10A (1) If at any stage in the course of conducting an investigation under this Act a housing ombudsman forms the opinion that the complaint relates partly to a matter within the jurisdiction of a Local Commissioner, the ombudsman may, subject to sub-paragraph (2), conduct an investigation under this Act jointly with that Commissioner.

(2) A housing ombudsman must obtain the consent of the complainant or the complainant's representative before agreeing to a joint investigation referred to in sub-paragraph (1).

(3) If a housing ombudsman forms the opinion that a complaint which is being investigated by a Local Commissioner relates partly to a matter within the jurisdiction of the ombudsman, the ombudsman may conduct an investigation jointly with that Commissioner.

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(4) If a housing ombudsman conducts an investigation jointly with a Local Commissioner, the requirements of paragraph 7 may be satisfied by a report made jointly with that person.

(5) A joint report made under this paragraph must distinguish determinations of a housing ombudsman from other findings or recommendations.”

Home information packs

183 Abolition of home information packs

(1) Part 5 of the Housing Act 2004 (home information packs) is repealed.

(2) Schedule 18 (home information packs: consequential amendments) has effect.

VALID FROM 06/04/2012

Tenants' deposits

184 Tenancy deposit schemes

(1) The Housing Act 2004 is amended as follows.

(2) In section 213 (requirements relating to tenancy deposits)—

(a) in subsection (3) (landlord's requirement to comply with initial requirements within 14 days of receipt of deposit) for “14” substitute “ 30 ”, and

(b) in subsection (6)(b) (landlord's requirement to give tenant information within 14 days of receipt of deposit) for “14” substitute “ 30 ”.

(3) Section 214 (proceedings relating to tenancy deposits) is amended as follows.

(4) In subsection (1) (grounds for an application to a county court) for paragraph (a) substitute—

“(a) that section 213(3) or (6) has not been complied with in relation to the deposit, or”.

(5) After subsection (1) insert—

“(1A) Subsection (1) also applies in a case where the tenancy has ended, and in such a case the reference in subsection (1) to the tenant is to a person who was a tenant under the tenancy.”

(6) In subsection (2) (conditions for a remedy)—

(a) in the opening words for “if on such an application” substitute “ in the case of an application under subsection (1) if the tenancy has not ended and ”, and

(b) for paragraph (a) substitute—

“(a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or”.

(7) After subsection (2) insert—

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"(2A) Subsections (3A) and (4) apply in the case of an application under subsection (1) if the tenancy has ended (whether before or after the making of the application) and the court—

(a) is satisfied that section 213(3) or (6) has not been complied with in relation to the deposit, or

(b) is not satisfied that the deposit is being held in accordance with an authorised scheme,

as the case may be."

(8) After subsection (3) insert—

"(3A) The court may order the person who appears to the court to be holding the deposit to repay all or part of it to the applicant within the period of 14 days beginning with the date of the making of the order."

(9) In subsection (4) (amount of penalty payment)—

(a) omit "also", and

(b) for "equal to" substitute " not less than the amount of the deposit and not more than ".

(10) Section 215 (sanctions for non-compliance) is amended as follows.

(11) In subsection (1) (prevention of service of notice under section 21 of the Housing Act 1988)—

(a) at the beginning insert " Subject to subsection (2A), ", and

(b) for paragraph (b) substitute—

"(b) section 213(3) has not been complied with in relation to the deposit."

(12) In subsection (2) (prevention of service of notice under section 21 of the Housing Act 1988) at the beginning insert " Subject to subsection (2A), ".

(13) After subsection (2) insert—

"(2A) Subsections (1) and (2) do not apply in a case where—

(a) the deposit has been returned to the tenant in full or with such deductions as are agreed between the landlord and tenant, or

(b) an application to a county court has been made under section 214(1) and has been determined by the court, withdrawn or settled by agreement between the parties."

(14) In Schedule 10 (provisions relating to tenancy deposit schemes) in paragraph 5A(9)(b) (modification of section 213(3)) for "14" substitute " 30 ".

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VALID FROM 01/04/2012

Houses in multiple occupation

185 Exemption from HMO licensing for buildings run by co-operatives

(1) In Schedule 14 to the Housing Act 2004 (buildings which are not HMOs for the purposes of that Act (excluding Part 1)) after paragraph 2A insert—

"**Buildings controlled or managed by a co-operative society**

2B (1) A building where—

(a) the person managing or having control of it is a co-operative society whose rules are such as to secure that each of the conditions set out in sub-paragraph (2) is met, and

(b) no person who occupies premises in the building does so by virtue of an assured tenancy, a secure tenancy or a protected tenancy.

(2) The conditions are—

(a) that membership of the society is restricted to persons who are occupiers or prospective occupiers of buildings managed or controlled by the society,

(b) that all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend,

(c) that each member has equal voting rights at such a meeting, and

(d) that, if a person occupies premises in the building and is not a member, that person is an occupier of the premises only as a result of sharing occupation of them with a member at the member's invitation.

(3) For the purposes of sub-paragraph (1) "co-operative society" means a body that—

(a) is registered—

(i) as a co-operative society under section 1 of the 1965 Act, or

(ii) is a pre-2010 Act society (as defined by section 4A(1) of the 1965 Act) which meets the condition in section 1(2) of the 1965 Act, and

(b) is neither—

(i) a non-profit registered provider of social housing, nor

(ii) registered as a social landlord under Part 1 of the Housing Act 1996.

(4) In this paragraph—

"the 1965 Act" means the Co-operative and Community Benefit Societies and Credit Unions Act 1965;

"assured tenancy" has the same meaning as in Part 1 of the Housing Act 1988;

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"protected tenancy" has the same meaning as in the Rent Act 1977;

"secure tenancy" has the same meaning as in Part 4 of the Housing Act 1985."

(2) Until the coming into force of section 1 of the 2010 Act, the paragraph 2B inserted by subsection (1) of this section has effect as if for sub-paragraph (3)(a) of that paragraph there were substituted—

"(a) is a society registered, or treated as registered, under section 1 of the 1965 Act in the case of which the condition in section 1(2)(a) of that Act is fulfilled (bona fide co-operative society),".

(3) Until the coming into force of section 2 of the 2010 Act, the paragraph 2B inserted by subsection (1) of this section has effect as if in sub-paragraph (4) of that paragraph "Industrial and Provident Societies Act 1965" were substituted for "Co-operative and Community Benefit Societies and Credit Unions Act 1965".

(4) In subsections (2) and (3) "the 2010 Act" means the Co-operative and Community Benefit Societies and Credit Unions Act 2010.

PART 8

LONDON

CHAPTER 1

HOUSING AND REGENERATION FUNCTIONS

186 Removal of limitations on Greater London Authority's general power

(1) Section 31 of the Greater London Authority Act 1999 (limits of the Authority's general power) is amended as follows.

(2) In subsection (3) (prohibition on the Authority incurring expenditure in providing housing or other services) omit paragraph (a) (provision of housing).

(3) Omit subsection (4) (interpretation of reference to provision of housing).

(4) Before subsection (5) insert—

"(4A) The reference in subsection (3) above to providing any education services does not include sponsoring Academies or facilitating their sponsorship."

Commencement Information

I74 S. 186 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(u)** (with arts. 6, 7, arts. 9-11)

187 New housing and regeneration functions of the Authority

(1) Part 7A of the Greater London Authority Act 1999 is amended as follows.

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In the heading to that Part, after "HOUSING" insert " AND REGENERATION ".

(3) Before section 333A insert—

"Functions in relation to land

333ZA **Compulsory acquisition of land**

(1) The Authority may acquire land in Greater London compulsorily for the purposes of housing or regeneration.

(2) The Authority may exercise the power in subsection (1) only if the Secretary of State authorises it to do so.

(3) The power in subsection (1) includes power to acquire new rights over land.

(4) Subsection (5) applies where—

(a) land forming part of a common, open space or allotment is being acquired under subsection (1), or

(b) new rights are being acquired under subsection (1) over land forming part of a common, open space or allotment.

(5) The power under subsection (1) includes power to acquire land compulsorily for giving in exchange for that land or those new rights.

(6) Part 1 of Schedule 2 to the Housing and Regeneration Act 2008 (compulsory acquisition of land by the Homes and Communities Agency) applies in relation to the acquisition of land under subsection (1) as it applies in relation to the acquisition of land under section 9 of that Act.

(7) In that Part of that Schedule as applied by subsection (6)—

(a) references to section 9 of that Act are to be read as references to subsection (1),

(b) references to the Homes and Communities Agency are to be read as references to the Authority, and

(c) references to Part 1 of that Act are to be read as references to this Part.

(8) The provisions of Part 1 of the Compulsory Purchase Act 1965 (other than section 31) apply, so far as applicable, to the acquisition by the Authority of land by agreement for the purposes of housing or regeneration.

(9) In this section—

"allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

"common" has the meaning given by section 19(4) of the Acquisition of Land Act 1981;

"open space" means any land which is—

(a) laid out as a public garden,

(b) used for the purposes of public recreation, or

(c) a disused burial ground.

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333ZB **Powers in relation to land held for housing or regeneration purposes**

(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers in relation to land of the Homes and Communities Agency) applies in relation to the Authority and land held by it for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and its land.

(2) In that Schedule as applied by subsection (1)—
- (a) references to the Homes and Communities Agency are to be read as references to the Authority, and
- (b) references to the Homes and Communities Agency's land are to the Authority's land held by it for the purposes of housing or regeneration.

(3) Schedule 4 to that Act (powers in relation to, and for, statutory undertakers) applies in relation to the Authority and land held by it for the purposes of housing or regeneration as it applies in relation to the Homes and Communities Agency and its land.

(4) In that Schedule as applied by subsection (3)—
- (a) references to the Homes and Communities Agency are to be read as references to the Authority,
- (b) references to the Homes and Communities Agency's land are to the Authority's land held by it for the purposes of housing or regeneration,
- (c) references to Part 1 of that Act are to be read as references to this Part, and
- (d) references to the functions of the Homes and Communities Agency under Part 1 of that Act are to be read as references to the functions of the Authority relating to housing or regeneration.

333ZC **Disposal etc of land held for housing and regeneration purposes**

(1) The Authority may not dispose of land held by it for the purposes of housing or regeneration for less than the best consideration which can reasonably be obtained unless the Secretary of State consents.

(2) Consent under subsection (1)—
- (a) may be general or specific;
- (b) may be given unconditionally or subject to conditions.

(3) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of—
- (a) the grant of a term of not more than 7 years, or
- (b) the assignment of a term which, at the date of assignment, has not more than 7 years to run.

(4) A disposal of land by the Authority is not invalid merely because any consent required by subsection (1) has not been given.

(5) A person dealing with—
- (a) the Authority, or
- (b) a person claiming under the Authority,

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in relation to any land need not be concerned as to whether any consent required by subsection (1) has been given.

333ZD **Power to enter and survey land**

(1) Sections 17 and 18 of the Housing and Regeneration Act 2008 (power to enter and survey land) apply in relation to the Authority and land in Greater London as they apply in relation to the Homes and Communities Agency and land outside Greater London.

(2) In those sections as applied by subsection (1)—
- (a) references to the Homes and Communities Agency are to be read as references to the Authority,
- (b) references to land are to land in Greater London, and
- (c) the reference to a proposal for the Homes and Communities Agency to acquire land is a reference to a proposal for the Authority to acquire land for the purposes of housing or regeneration.

Social housing

333ZE **Social housing**

(1) Subject to subsection (2), sections 31 to 36 of the Housing and Regeneration Act 2008 (social housing functions) apply in relation to the Authority as they apply in relation to the Homes and Communities Agency.

(2) In those sections as applied by subsection (1)—
- (a) references to the Homes and Communities Agency are to be read as references to the Authority,
- (b) the definition of "social housing assistance" in section 32(13) is to be read as if the reference to financial assistance given under section 19 of that Act were to financial assistance given by the Authority,
- (c) section 34 is to be read as if subsection (1) were omitted, and
- (d) section 35(1) is to be read as if the reference to section 19 of the Housing and Regeneration Act 2008 were omitted and as if the reference in paragraph (b) to a dwelling in England outside Greater London were to a dwelling in Greater London.

(3) Sums received by the Authority in respect of repayments of grants made by it for the purposes of social housing are to be used by it for those purposes.

333ZF **Relationship with the Regulator of Social Housing: general**

(1) The Authority must, in the exercise of its housing and regeneration functions, co-operate with the Regulator of Social Housing (referred to in this Part as "the Regulator").

(2) In particular, the Authority must consult the Regulator on matters likely to interest the Regulator in the exercise of its social housing functions.

(3) The Regulator must, in the exercise of its social housing functions, co-operate with the Authority.

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(4) In particular, the Regulator must consult the Authority on matters likely to interest the Authority in the exercise of its housing and regeneration functions.

333ZG **Relationship with the Regulator of Social Housing: directions**

(1) The Regulator may direct the Authority not to give financial assistance in connection with social housing to a specified registered provider of social housing.

(2) A direction may be given if—
  (a) the Regulator has decided to hold an inquiry into affairs of the registered provider of social housing under section 206 of the Housing and Regeneration Act 2008 (and the inquiry is not concluded),
  (b) the Regulator has received notice in respect of the registered provider of social housing under section 145 of that Act, or
  (c) the Regulator has appointed an officer of the registered provider of social housing under section 269 of that Act (and the person appointed has not vacated office).

(3) A direction may prohibit the Authority from giving assistance of a specified kind (whether or not in pursuance of a decision already taken and communicated to the registered provider of social housing).

(4) A direction may not prohibit grants to a registered provider of social housing in respect of discounts given by the provider on disposals of dwellings to tenants.

(5) A direction has effect until withdrawn.

(6) In this section the following terms have the same meaning as in Part 2 of the Housing and Regeneration Act 2008—
  "disposal" (see section 273 of that Act);
  "dwelling" (see section 275 of that Act);
  "tenant" (see section 275 of that Act).

333ZH **Relationship with the Regulator of Social Housing: further provisions**

(1) Subsection (2) applies if the Authority is proposing to give financial assistance on condition that the recipient provides low cost home ownership accommodation.

(2) The Authority must consult the Regulator about the proposals.

(3) The Authority must notify the Regulator at least 14 days before exercising, in relation to a registered provider of social housing, any of the powers conferred by section 32(2) to (4) of the Housing and Regeneration Act 2008 (recovery etc of social housing assistance).

(4) The Authority must consult the Regulator before making a general determination under section 32 or 33 of the Housing and Regeneration Act 2008.

(5) For the purposes of this section a person provides low cost home ownership accommodation if (and only if) the person acquires, constructs or converts any

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housing or other land for use as low cost home ownership accommodation or ensures such acquisition, construction or conversion by another.

(6) In this section "low cost home ownership accommodation" has the meaning given by section 70 of the Housing and Regeneration Act 2008.

Exercise of functions in relation to certain property etc

333ZI **Exercise of functions by the Authority in relation to certain property etc**

(1) The Authority may do in relation to any property, rights or liabilities, or any undertaking, to which this section applies anything that the Commission for the New Towns or (as the case may be) an urban development corporation could do in relation to the property, rights or liabilities or the undertaking.

(2) This section applies to—

(a) any property, rights or liabilities that—

(i) have been or are to be transferred to the Authority from the Homes and Communities Agency by virtue of section 190 of the Localism Act 2011, and

(ii) were transferred to the Homes and Communities Agency from the Commission for the New Towns by virtue of section 51 of and Schedule 6 to the Housing and Regeneration Act 2008,

(b) an undertaking, or part of an undertaking, of an urban development corporation that has been or is to be transferred to the Authority by virtue of an agreement under section 165 of the Local Government, Planning and Land Act 1980,

(c) any property, rights or liabilities of an urban development corporation that have been or are to be transferred to the Authority by virtue of an order under section 165B of the Local Government, Planning and Land Act 1980, and

(d) any property, rights or liabilities that—

(i) have been or are to be transferred to the Authority from the Homes and Communities Agency by virtue of section 190 of the Localism Act 2011, and

(ii) were transferred to the Homes and Communities Agency from an urban development corporation by virtue of an order under section 165B of the Local Government, Planning and Land Act 1980.

(3) In any enactment (whenever passed or made) references to the Authority's new towns and urban development functions are to its functions in relation to any property, rights or liabilities, or any undertaking, to which this section applies (whether exercisable by virtue of this section or otherwise).

(4) In subsection (3) "enactment" includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

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Grants for housing and regeneration purposes

333ZJ **Grants to the Authority for housing and regeneration purposes**

(1) The Secretary of State may pay to the Authority grants of such amounts as the Secretary of State may, with the Treasury's consent, determine in respect of the exercise of the Authority's functions relating to housing and regeneration.

(2) A grant under this section may be paid at such times, or in such instalments at such times, as the Secretary of State may, with the Treasury's consent, determine.

(3) A grant under this section may be made subject to such conditions as the Secretary of State may determine.

(4) Conditions under subsection (3) may, in particular, include—

(a) provision as to the use of the grant;

(b) provision as to the use of any funds generated by activities funded by the grant;

(c) provision as to the circumstances in which the whole or part of the grant must be repaid."

(4) After section 333D insert—

"Interpretation

333E Interpretation of Part 7A

In this Part—

"building" means a building or other structure (including a house-boat or caravan);

"caravan" has the meaning given by section 29(1) of the Caravan Sites and Control of Development Act 1960;

"housing" means a building, or part of a building, occupied or intended to be occupied as a dwelling or as more than one dwelling; and includes a hostel which provides temporary residential accommodation;

"land" includes housing or other buildings (and see also the definition in Schedule 1 to the Interpretation Act 1978);

"the Regulator" has the meaning given by section 333ZF(1);

"social housing" (except as part of the expression "social housing functions") has the same meaning as in Part 2 of the Housing and Regeneration Act 2008 (see section 68 of that Act)."

Commencement Information

I75 S. 187(1)(2) in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(v)** (with arts. 6, 7, arts. 9-11)

I76 S. 187(3)(4) in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(w)** (with arts. 6, 7, arts. 9-11)

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VALID FROM 03/05/2012

188 The London housing strategy

(1) Before section 333A of the Greater London Authority Act 1999 (the London housing strategy) insert— " The London housing strategy ".

(2) That section is amended as follows.

(3) In subsection (2)(d) for "recommendations" substitute " proposals ".

(4) In subsection (3)—

(a) in the opening words for "recommendations" substitute " proposals ",

(b) in paragraph (a) for "Homes and Communities Agency" substitute " Authority ", and

(c) for paragraph (b) substitute—

"(b) proposals as to the exercise by the Authority of its functions of giving housing financial assistance (see subsection (4) below);".

(5) For subsection (4) substitute—

"(4) Proposals under subsection (3)(b) above may include—

(a) proposals as to the amount of housing financial assistance to be given for different activities or purposes;

(b) proposals as to the number, type and location of houses to be provided by means of housing financial assistance."

(6) In subsection (10) in the definition of "housing financial assistance" for the words from "under" to "2008" substitute " by the Authority ".

(7) Section 333D (duties of Homes and Communities Agency) is amended as follows.

(8) In the heading for "Homes and Communities Agency" substitute " the Authority ".

(9) In subsection (1) for the words from "Greater London" to "Agency" substitute " housing or regeneration, the Authority ".

VALID FROM 01/04/2012

189 Modification to the Homes and Communities Agency's functions

(1) The Housing and Regeneration Act 2008 is amended as follows.

(2) In section 2(2) (objects of the Homes and Communities Agency) before the definition of "good design" insert—

""England" does not include Greater London;".

(3) Section 13 (power of Secretary of State to make designation orders) is amended as follows.

(4) In subsection (1) after "England" insert " outside Greater London ".

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(5) In subsection (6)—
  (a) after "England," insert " or ", and
  (b) omit the words from ", a London" to the end of the subsection.

(6) In section 14(7) (content of designation orders) in paragraph (a) of the definition of "relevant functions" omit the words from ", a London" to "of London,".

(7) In section 26(2) (duty to act as agent in respect of regeneration and development) after "England" insert " outside Greater London ".

(8) In section 35(1)(b) (duty to give financial assistance in respect of certain disposals) after "England" insert " outside Greater London ".

190 Transfer of property of Homes and Communities Agency etc

(1) The Secretary of State may at any time make a scheme (a "transfer scheme") transferring the property, rights and liabilities of the Homes and Communities Agency ("the HCA") or the Secretary of State that are specified in the scheme to—
  (a) the Greater London Authority,
  (b) a functional body,
  (c) a company that is a subsidiary of the Greater London Authority,
  (d) the Secretary of State,
  (e) a London borough council, or
  (f) the Common Council of the City of London.

(2) The Secretary of State may by order specify another person, or a description of other persons, to whom property, rights or liabilities of the HCA or the Secretary of State may be transferred by a transfer scheme.

(3) In this section—

' "company" means—
  (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
  (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969;

"functional body" has the meaning given by section 424(1) of the Greater London Authority Act 1999;

"rights" and "liabilities" include rights, or (as the case may be) liabilities, in relation to a contract of employment;

"subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

Commencement Information

I77 S. 190 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(x)** (with arts. 6, 7, arts. 9-11)

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
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191 Abolition of London Development Agency and transfer of its property etc

(1) The London Development Agency ceases to exist on the day on which this subsection comes into force.

(2) The Secretary of State may at any time make a scheme (a "transfer scheme") transferring the property, rights and liabilities of the London Development Agency that are specified in the scheme to—

(a) the Greater London Authority,

(b) a functional body,

(c) a company that is a subsidiary of the Greater London Authority,

(d) the Secretary of State,

(e) a London borough council, or

(f) the Common Council of the City of London.

(3) Before making a transfer scheme, the Secretary of State must consult the Mayor of London.

(4) The Secretary of State may by order specify another person, or a description of other persons, to whom property, rights or liabilities of the London Development Agency may be transferred by a transfer scheme.

(5) In this section—

' "company" means—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969;

"functional body" has the meaning given by section 424(1) of the Greater London Authority Act 1999;

"rights" and "liabilities" include rights, or (as the case may be) liabilities, in relation to a contract of employment;

"subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

Commencement Information

I78 S. 191(2)-(5) in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(y)** (with arts. 6, 7, arts. 9-11)

VALID FROM 03/05/2012

192 Mayor's economic development strategy for London

(1) The Greater London Authority Act 1999 is amended as follows.

(2) After section 333E (which is inserted by section 187) insert—

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"PART 7B

ECONOMIC DEVELOPMENT

333F Economic development strategy for London

(1) The Mayor shall prepare and publish a document to be known as the "Economic development strategy for London".

(2) The Economic development strategy for London is to contain—
- (a) the Mayor's assessment of the economic conditions of Greater London, and
- (b) the Mayor's policies and proposals for the economic development and regeneration of Greater London, including the Mayor's strategy for—
  - (i) promoting business efficiency, investment and competitiveness in Greater London,
  - (ii) promoting employment in Greater London, and
  - (iii) enhancing the development of skills relevant to employment in Greater London.

The references in this subsection to Greater London include its rural parts as well as its non-rural parts.

(3) In preparing or revising the Economic development strategy for London the Mayor must consult—
- (a) such persons as appear to the Mayor to represent employers in Greater London, and
- (b) such persons as appear to the Mayor to represent employees in Greater London.

(4) Each of the functional bodies must in the exercise of any function have regard to the Economic development strategy for London.

(5) The Secretary of State may give guidance to the Mayor about the exercise of the Mayor's functions in relation to the Economic development strategy for London with respect to—
- (a) the matters to be covered by that strategy or that strategy as revised, and
- (b) the issues to be taken into account in preparing or revising that strategy.

(6) The issues mentioned in subsection (5)(b) above include issues relating to any one or more of the following—
- (a) Greater London,
- (b) any area of England outside Greater London, and
- (c) any part of the United Kingdom outside England.

(7) The Mayor is to have regard to any guidance given under subsection (5) above.

(8) Where the Secretary of State considers—

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(a) that the Economic development strategy for London (or any part of it) is inconsistent with national policies, or

(b) that the Economic development strategy for London or its implementation is having, or is likely to have, a detrimental effect on any area outside Greater London,

the Secretary of State may direct the Mayor to make such revisions of the strategy as may be specified in the direction in order to remove the inconsistency or, as the case may be, the detrimental effect or likely detrimental effect.

(9) Where the Secretary of State gives the Mayor a direction under subsection (8) above, the Mayor must revise the Economic development strategy for London in accordance with the direction.

(10) Where the Mayor revises the Economic development strategy for London in accordance with subsection (9) above, subsection (3) above and section 42 above do not apply.

(11) For the purposes of subsection (8) above "national policies" are any policies of Her Majesty's government which are available in a written form and which—

(a) have been laid or announced before, or otherwise presented to, either House of Parliament, or

(b) have been published by a Minister of the Crown."

(3) In section 41(1) (strategies to which section applies) for paragraph (b) (the London Development Agency strategy) substitute—

"(b) the Economic development strategy for London prepared and published under section 333F below,".

193 Transfer schemes: general provisions

(1) In this section—

"transfer scheme" means a scheme under section 190(1) or 191(2);

"transferee", in relation to a transfer scheme, means the person to whom property, rights or liabilities are transferred by the scheme;

"transferor", in relation to a transfer scheme, means the person from whom property, rights or liabilities are transferred by the scheme.

(2) The things that may be transferred under a transfer scheme include—

(a) property, rights or liabilities that could not otherwise be transferred;

(b) property acquired, and rights and liabilities arising, after the making of the scheme.

(3) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—

(a) make provision for certificates issued by the Secretary of State to be conclusive evidence that property has been transferred;

(b) create rights, or impose liabilities, in relation to property or rights transferred;

(c) make provision about the continuing effect of things done (or having effect as if done) by or in relation to the transferor in respect of anything transferred;

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(d) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in relation to anything transferred;

(e) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;

(f) make provision for the shared ownership or use of property;

(g) provide for section 36(3)(c) of the London Olympic Games and Paralympic Games Act 2006 to continue (until repealed) to apply to land transferred to which it applied immediately before the transfer.

(4) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer under a transfer scheme where the transfer relates to rights or liabilities under a contract of employment (whether or not it is a relevant transfer for the purposes of those regulations).

(5) A transfer scheme may provide—

(a) for modifications by agreement;

(b) for modifications to have effect from the date when the original scheme came into effect.

(6) In this section "rights" and "liabilities" include rights, or (as the case may be) liabilities, in relation to a contract of employment.

Commencement Information

I79 S. 193 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(z)** (with arts. 6, 7, arts. 9-11)

194 Power to make consequential etc provision

(1) The Secretary of State may by order make such consequential provision or such transitory or transitional provision or savings as the Secretary of State considers appropriate for the purposes of or in consequence of this Chapter.

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

(a) provision for things done (or having effect as if done) by or in relation to a predecessor to have effect as if done by or in relation to a successor;

(b) provision about the continuation by, on behalf of or in relation to a successor of things (including legal proceedings) in the process of being done by, on behalf of or in relation to a predecessor;

(c) provision for references to a predecessor in an instrument or other document to be treated as references to a successor.

(3) In subsection (2)—

"predecessor" means a person from whom property, rights or liabilities may be transferred by a scheme under section 190(1) or 191(2);

"successor" means a person to whom property, rights or liabilities may be transferred by a scheme under section 190(1) or 191(2).

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Commencement Information

I80 S. 194 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(z)** (with arts. 6, 7, arts. 9-11)

195 Consequential amendments

(1) Schedule 19 (housing and regeneration: consequential amendments) has effect.

(2) Schedule 20 (amendments in consequence of the abolition of the London Development Agency) has effect.

Commencement Information

I81 S. 195 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(aa)** (with arts. 6, 7, arts. 9-11)

CHAPTER 2

MAYORAL DEVELOPMENT CORPORATIONS

Introductory

196 Interpretation of Chapter

In this Chapter—

"the Mayor" means the Mayor of London;

"MDC" means a Mayoral development corporation (see section 198).

Establishment and areas

197 Designation of Mayoral development areas

(1) The Mayor may designate any area of land in Greater London as a Mayoral development area.

(2) Separate parcels of land may be designated as one Mayoral development area.

(3) The Mayor may designate a Mayoral development area only if—

(a) the Mayor considers that designation of the area is expedient for furthering any one or more of the Greater London Authority's principal purposes,

(b) the Mayor has consulted the persons specified by subsection (4),

(c) the Mayor has had regard to any comments made in response by the consultees,

(d) in the event that those comments include comments made by the London Assembly or a consultee under subsection (4)(d), (e), (f) or (g) that are comments that the Mayor does not accept, the Mayor has published a statement giving the reasons for the non-acceptance,

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(e) the Mayor has laid before the London Assembly, in accordance with standing orders of the Greater London Authority, a document stating that the Mayor is proposing to designate the area, and

(f) the consideration period for the document has expired without the London Assembly having rejected the proposal.

(4) The persons who have to be consulted before an area may be designated are—

(a) the London Assembly,

(b) each constituency member of the London Assembly whose Assembly constituency contains any part of the area,

(c) each Member of Parliament whose parliamentary constituency contains any part of the area,

(d) each London borough council whose borough contains any part of the area,

(e) the Common Council of the City of London if any part of the area is within the City,

(f) the sub-treasurer of the Inner Temple if any part of the area is within the Inner Temple,

(g) the under treasurer of the Middle Temple if any part of the area is within the Middle Temple, and

(h) any other person whom the Mayor considers it appropriate to consult.

(5) For the purposes of subsection (3)(f)—

(a) the "consideration period" for a document is the 21 days beginning with the day the document is laid before the London Assembly in accordance with standing orders of the Greater London Authority, and

(b) the London Assembly rejects a proposal if it resolves to do so on a motion—

(i) considered at a meeting of the Assembly throughout which members of the public are entitled to be present, and

(ii) agreed to by at least two thirds of the Assembly members voting.

(6) If the Mayor designates a Mayoral development area, the Mayor must—

(a) publicise the designation,

(b) notify the Secretary of State of the designation, and

(c) notify the Secretary of State of the name to be given to the Mayoral development corporation for the area.

(7) Section 30(2) of the Greater London Authority Act 1999 (interpretation of references to the Authority's principal purposes) applies for the purposes of subsection (3)(a).

Commencement Information

I82 S. 197(1)(2)(3)(a)-(d)(4)(6)(7) in force at 15.1.2012 see s. 240(1)(l)

I83 S. 197(3)(e)(f)(5) in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(bb)** (with arts. 6, 7, arts. 9-11)

198 Mayoral development corporations: establishment

(1) Subsection (2) applies if the Secretary of State receives notification under section 197(6) of the designation of a Mayoral development area.

(2) The Secretary of State must by order—

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(a) establish a corporation for the area,
(b) give the corporation the name notified to the Secretary of State by the Mayor, and
(c) give effect to any decisions notified under section 202(8) (decisions about planning functions, but see also sections 199(4) and 214(6) as regards other decisions to which effect has to be given).

(3) A corporation established under subsection (2) is a Mayoral development corporation.

(4) A Mayoral development corporation is a body corporate having the name given to it by the order establishing it.

(5) In exercising power under subsection (2) to make provision of the kind mentioned in section 235(2)(b), the Secretary of State is to have regard to any relevant representations received from the Mayor.

(6) Schedule 21 (further provision about MDCs) has effect.

199 Exclusion of land from Mayoral development areas

(1) The Mayor may alter the boundaries of a Mayoral development area so as to exclude any area of land.

(2) Before making an alteration, the Mayor must consult—
(a) the London Assembly, and
(b) any other person whom the Mayor considers it appropriate to consult.

(3) If the Mayor makes an alteration, the Mayor must—
(a) publicise the alteration,
(b) notify the Secretary of State of the alteration, and
(c) notify the MDC for the area (if an MDC has been established for that area).

(4) If the Secretary of State receives notification under subsection (3) of an alteration, the Secretary of State must give effect to the alteration—
(a) when making the order under section 198(2) that establishes an MDC for the Mayoral development area concerned, or
(b) by exercising the power to amend that order (see section 14 of the Interpretation Act 1978).

200 Transfers of property etc to a Mayoral development corporation

(1) The Secretary of State may at any time make a scheme transferring to an MDC property, rights and liabilities of a person within subsection (3).

(2) Before making a scheme under subsection (1), the Secretary of State must consult—
(a) the person whose property, rights or liabilities would be transferred, and
(b) the Mayor.

(3) A person is within this subsection if the person is—
(a) a London borough council,
(b) the Common Council of the City of London in its capacity as a local authority,
(c) the Homes and Communities Agency,

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(d) a development corporation established under the New Towns Act 1981 for a new town all or part of whose area is in Greater London,

(e) an urban development corporation for an urban development area all or part of which is in Greater London,

(f) the Olympic Delivery Authority,

(g) any company, or other body corporate, which is a wholly-owned subsidiary of the Olympic Delivery Authority,

(h) any company, or other body corporate, which—

(i) is a subsidiary of the Olympic Delivery Authority, and

(ii) is a subsidiary of at least one other public authority, and

(iii) is not a subsidiary of any person who is not a public authority,

(i) a Minister of the Crown or a government department,

(j) any company all the shares in which are held by a Minister of the Crown, or

(k) any company whose members—

(i) include the Mayor and a Minister of the Crown, and

(ii) do not include anyone who is neither the Mayor nor a Minister of the Crown.

(4) The Mayor may at any time make a scheme transferring to an MDC property, rights and liabilities of—

(a) the Greater London Authority,

(b) a functional body other than that MDC, or

(c) a company that is a subsidiary of the Greater London Authority.

(5) The Mayor must publish a scheme under subsection (4) as soon after it is made as is reasonably practicable.

(6) The Secretary of State may by order specify another person, or a description of other persons, from whom property, rights or liabilities may be transferred under subsection (1) or (4).

(7) In subsection (3)(g) "wholly-owned subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

(8) For the purposes of subsection (3)(h) and paragraph (b) of this subsection, a body corporate ("C") is a "subsidiary" of another person ("P") if—

(a) P, or P's nominee, is a member of C, or

(b) C is a subsidiary of a body corporate that is itself a subsidiary of P.

(9) In subsection (4)(c)—

"company" means—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969, and

"subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

(10) In this section—

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"functional body" has the meaning given by section 424(1) of the Greater London Authority Act 1999;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975;

"public authority" means a public body or a Minister of the Crown or other holder of a public office;

"urban development corporation" means a corporation established by an order under section 135 of the Local Government, Planning and Land Act 1980.

Object and main power

201 Object and powers

(1) The object of an MDC is to secure the regeneration of its area.

(2) An MDC may do anything it considers appropriate for the purposes of its object or for purposes incidental to those purposes.

(3) In this section "specific power", in relation to an MDC, means any of the MDC's powers other than its powers under subsection (2).

(4) An MDC's specific powers are to be exercised for the purposes of its object or for purposes incidental to those purposes.

(5) Each of an MDC's specific powers may be exercised separately or together with, or as part of, another of its specific powers.

(6) None of an MDC's specific powers limits the scope of its other specific powers.

(7) None of an MDC's specific powers limits the scope of its powers under subsection (2).

(8) But—

(a) subsections (4) and (5) do not apply to an MDC in its capacity as a local planning authority as a result of decisions under section 202 or in its exercise of other functions as a result of decisions under that section,

(b) subsection (4) does not apply to the exercise of a function by an MDC in consequence of an authorisation under section 38 of the Greater London Authority Act 1999 (delegation by Mayor), and

(c) the powers conferred by subsection (2) must not be used to override a restriction imposed on the exercise of a specific power.

Planning and infrastructure functions

202 Functions in relation to Town and Country Planning

(1) Subsections (2) to (4) apply if the Mayor designates a Mayoral development area.

(2) The Mayor may decide that the MDC for the area ("the MDC") is to be the local planning authority, for the whole or any portion of the area, for the purposes of any one or more of the following—

(a) Part 3 of the Town and Country Planning Act 1990,

(b) Part 2 of the Planning and Compulsory Purchase Act 2004, and

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(c) Part 3 of that Act.

(3) The Mayor may decide that the MDC is to have, in the whole or any portion of the area, the functions conferred on the local planning authority by the provisions mentioned in Part 1 of Schedule 29 to the Local Government, Planning and Land Act 1980.

(4) The Mayor may decide that the MDC is to have, in the whole or any portion of the area, the functions conferred on the relevant planning authority by Schedule 8 to the Electricity Act 1989 so far as applying to applications for consent under section 37 of that Act.

(5) If the Mayor makes a decision under subsection (3), the Mayor may decide that the provisions specified in Part 2 of Schedule 29 to the Local Government, Planning and Land Act 1980 are to have effect, in relation to land in the whole or any portion of the area and to the MDC, subject to the modifications specified in that Part of that Schedule.

(6) The Mayor may, at any time before the order establishing the MDC is made, decide that a decision under any of subsections (2) to (5) (whether as originally made or as varied under this subsection) should be subject to variations specified in the decision under this subsection.

(7) The Mayor may make a decision under any of subsections (2) to (6) only if—
   (a) the Mayor has consulted the persons specified by section 197(4) in relation to the area,
   (b) the Mayor has had regard to any comments made in response by the consultees, and
   (c) in the event that those comments include comments made by the London Assembly or an affected local authority that are comments that the Mayor does not accept, the Mayor has published a statement giving the reasons for the non-acceptance.

   In paragraph (c) "affected local authority" means a person specified by section 197(4)(d), (e), (f) or (g) in relation to the area.

(8) If the Mayor makes a decision under any of subsections (2) to (6), the Mayor must—
   (a) publicise the decision, and
   (b) notify the Secretary of State of the decision.

(9) A decision under subsection (2), or a decision under subsection (6) varying a decision under subsection (2), may make different provision for different portions of the area.

(10) For the purposes of subsection (6) "variation", in relation to a decision, includes a variation that involves—
   (a) revocation of all or part of the decision, or
   (b) substitution of something new for all or part of the decision, including substitution of something wholly unlike what it replaces.

203 Arrangements for discharge of, or assistance with, planning functions

(1) Where an MDC, as a result of being the local planning authority for purposes of Part 3 of the Town and Country Planning Act 1990 in relation to any area, has functions in place of a London borough council or the Common Council of the City of London, the MDC may make arrangements for the discharge of any of those functions by that council.

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(2) Where arrangements are in force under subsection (1) for the discharge of any functions of an MDC by a council—
  (a) that council may arrange for the discharge of those functions by a committee, sub-committee or officer of the council, and
  (b) section 101(2) of the Local Government Act 1972 (delegation by committees and sub-committees) applies in relation to those functions as it applies in relation to the functions of that council.

(3) Arrangements under subsection (1) for the discharge of any functions do not prevent the MDC from exercising those functions.

(4) Subsection (5) applies where an MDC, as a result of being the local planning authority for purposes of Part 2 or 3 of the Planning and Compulsory Purchase Act 2004 in relation to any area, has functions in place of a London borough council or the Common Council of the City of London.

(5) The MDC may seek from that council, and that council may give, assistance in connection with the MDC's discharge of any of those functions.

204 Removal or restriction of planning functions

(1) This section applies if an order establishing an MDC ("the MDC") has been made.

(2) The Mayor may decide in relation to a function conferred on the MDC as a result of a decision under section 202(2), (3) or (4)—
  (a) that the MDC is to cease to have the function, whether in all respects or in respects specified in the decision, or
  (b) that the exercise of the function by the MDC is to be subject to restrictions specified in the decision.

(3) If the Mayor makes a decision under subsection (2) ("the new decision"), the Mayor may decide that any provision made under section 198(2) in consequence of a decision under section 202(5) should, in consequence of the new decision, be amended or revoked as specified in the decision under this subsection.

(4) A reference in subsection (2) or (3) to a decision under a provision of section 202 is, where that decision has been varied (whether once or more than once) under section 202(6), a reference to that decision as varied.

(5) If the Mayor makes a decision under subsection (2) or (3), the Mayor must—
  (a) publicise the decision, and
  (b) notify the Secretary of State of the decision.

(6) The Secretary of State must give effect to a decision notified under subsection (5) by exercising the power to amend the order under 198(2) that establishes the MDC (see section 14 of the Interpretation Act 1978).

205 Powers in relation to infrastructure

(1) An MDC may provide infrastructure.

(2) An MDC may facilitate the provision of infrastructure.

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(3) In this section "provide" includes provide by way of acquisition, construction, conversion, improvement or repair (and "provision" is to be read in the same way).

(4) In this section "infrastructure" means—
- (a) water, electricity, gas, telecommunications, sewerage or other services,
- (b) roads or other transport facilities,
- (c) retail or other business facilities,
- (d) health, educational, employment or training facilities,
- (e) social, religious or recreational facilities,
- (f) cremation or burial facilities, and
- (g) community facilities not falling within paragraphs (a) to (f).

Land functions

206 Powers in relation to land

(1) An MDC may regenerate or develop land.

(2) An MDC may bring about the more effective use of land.

(3) An MDC may provide buildings or other land.

(4) An MDC may carry out any of the following activities in relation to land—
- (a) acquiring, holding, improving, managing, reclaiming, repairing or disposing of buildings, other land, plant, machinery, equipment or other property,
- (b) carrying out building and other operations (including converting or demolishing buildings), and
- (c) creating an attractive environment.

(5) An MDC may facilitate—
- (a) the regeneration or development of land,
- (b) the more effective use of land,
- (c) the provision of buildings or other land, or
- (d) the carrying out of activities mentioned in subsection (4).

(6) In this section—
- (a) a reference to a "building" is a reference to—
  - (i) a building or other structure (including a house-boat or caravan), or
  - (ii) any part of something within sub-paragraph (i);
- (b) "develop" includes redevelop (and "development" includes redevelopment);
- (c) "improve", in relation to buildings, includes refurbish, equip and fit out;
- (d) "provide" includes provide by way of acquisition, construction, conversion, improvement or repair (and "provision" is to be read in the same way).

207 Acquisition of land

(1) An MDC may by agreement acquire land in its area or elsewhere.

(2) An MDC may acquire land in its area, or elsewhere in Greater London, compulsorily if the Secretary of State authorises it to do so.

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(3) An MDC must obtain the consent of the Mayor of London before submitting a compulsory purchase order authorising an acquisition under subsection (2) to the Secretary of State for confirmation.

(4) The power under subsection (2) includes power to acquire new rights over land.

(5) Subsection (6) applies where—
- (a) land forming part of a common, open space or allotment is being acquired under subsection (2), or
- (b) new rights are being acquired under subsection (2) over land forming part of a common, open space or allotment.

(6) The power under subsection (2) includes power to acquire land compulsorily for giving in exchange for that land or those new rights.

(7) Part 1 of Schedule 2 to the Housing and Regeneration Act 2008 (compulsory acquisition of land by the Homes and Communities Agency) applies in relation to the acquisition of land under subsection (2) as it applies in relation to the acquisition of land under section 9 of that Act.

(8) In that Part of that Schedule as applied by subsection (7)—
- (a) references to section 9 of that Act are to be read as references to subsection (2),
- (b) references to the Homes and Communities Agency are to be read as references to the MDC concerned, and
- (c) references to Part 1 of that Act are to be read as references to this Chapter.

(9) The provisions of Part 1 of the Compulsory Purchase Act 1965 (other than section 31) apply, so far as applicable, to the acquisition by an MDC of land by agreement.

(10) In subsection (5)—

"allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act;

"common" has the meaning given by section 19(4) of the Acquisition of Land Act 1981;

"open space" means any land which is—
- (a) laid out as a public garden,
- (b) used for the purposes of public recreation, or
- (c) a disused burial ground.

208 Powers in relation to acquired land

(1) Schedule 3 to the Housing and Regeneration Act 2008 (powers, in relation to land of the Homes and Communities Agency, to override easements etc, to extinguish public rights of way, and in relation to burial grounds and consecrated land) applies in relation to an MDC and its land as it applies in relation to the Homes and Communities Agency and its land.

(2) In that Schedule as applied by subsection (1), references to the Homes and Communities Agency are to be read as references to the MDC concerned.

(3) The power of the Secretary of State under Part 2 of that Schedule (extinguishment of public rights of way) as applied by subsection (1) is exercisable only with the consent of the Mayor.

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(4) Schedule 4 to that Act (powers in relation to, and for, statutory undertakers) applies in relation to an MDC and its land as it applies in relation to the Homes and Communities Agency and its land.

(5) In that Schedule as applied by subsection (4)—
   (a) references to the Homes and Communities Agency are to be read as references to the MDC concerned, and
   (b) references to Part 1 of that Act are to be read as references to this Chapter.

209 Restrictions on disposal of land

(1) An MDC may not dispose of land for less than the best consideration which can reasonably be obtained unless the Mayor consents.

(2) Subsection (1) does not apply to a disposal by way of a short tenancy if the disposal consists of—
   (a) the grant of a term of not more than 7 years, or
   (b) the assignment of a term which, at the date of assignment, has not more than 7 years to run.

(3) An MDC may not dispose of land which has been compulsorily acquired by it under this Chapter unless the Mayor consents.

(4) Subject to subsections (1) to (3), an MDC may dispose of land held by it in any way it considers appropriate.

210 Power to enter and survey land

(1) Sections 17 and 18 of the Housing and Regeneration Act 2008 (power to enter and survey land) apply in relation to an MDC as they apply in relation to the Homes and Communities Agency.

(2) In those sections as applied by subsection (1), references to that Agency are to be read as references to the MDC concerned.

Other functions

211 Adoption of private streets

(1) Where any street works have been executed on any land in a Mayoral development area which was then or has since become a private street (or part of a private street), the MDC for the area may serve a notice (an "adoption notice") on the street works authority requiring the authority to declare the private street (or part) to be a highway which for the purposes of the Highways Act 1980 is a highway maintainable at the public expense.

(2) Subsections (2) to (5) of section 157 of the Local Government, Planning and Land Act 1980 (appeal against corresponding notice served by an urban development corporation, and deemed adoption where no appeal or compliance) apply in relation to an adoption notice under subsection (1) of this section as they apply in relation to an adoption notice under subsection (1) of that section.

(3) Section 157(6) of that Act (interpretation) applies for the purposes of this section.

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212 Businesses, subsidiaries and other companies

(1) An MDC may carry on any business.

(2) An MDC may with the consent of the Mayor—
  (a) form, or
  (b) acquire interests in,
bodies corporate.

(3) An MDC must ensure that no subsidiary of the MDC engages in an activity which the MDC would not be required or permitted to carry on.

(4) An MDC must ensure that no subsidiary of the MDC—
  (a) borrows from a person other than the MDC, or
  (b) raises money by the issue of shares or stock to a person other than the MDC,
without the consent of the Mayor.

(5) In subsection (1) "business" includes undertaking.

(6) In this section "subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

213 Financial assistance

(1) An MDC may, with the consent of the Mayor, give financial assistance to any person.

(2) Financial assistance under this section may be given in any form.

(3) Financial assistance under this section may, in particular, be given by way of—
  (a) grants,
  (b) loans,
  (c) guarantee or indemnity,
  (d) investment, or
  (e) incurring expenditure for the benefit of the person assisted.

(4) Financial assistance under this section may be given on such terms and conditions as the MDC giving it considers appropriate (including provision for repayment, with or without interest).

214 Powers in relation to discretionary relief from non-domestic rates

(1) Subsection (2) applies if the Mayor designates a Mayoral development area.

(2) The Mayor may decide that the MDC for the area is to have—
  (a) in relation to qualifying hereditaments in the area, the function of making decisions (under section 47(3) and (6) of the 1988 Act) to the effect that section 47 of the 1988 Act applies as regards a hereditament, and
  (b) in relation to a hereditament as regards which that section applies as a result of a decision made by the MDC, the function of making the determinations mentioned in section 47(1)(a) of the Local Government Finance Act 1988 (determination of amount of discretionary relief).

(3) The Mayor may at any time decide that a decision under subsection (2) should be revoked.

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(4) The Mayor may make a decision under subsection (2) or (3) only if—
- (a) the Mayor has consulted the persons specified by section 197(4) in relation to the area,
- (b) the Mayor has had regard to any comments made in response by the consultees, and
- (c) in the event that those comments include comments made by the London Assembly or an affected local authority that are comments that the Mayor does not accept, the Mayor has published a statement giving the reasons for the non-acceptance.

In paragraph (c) "affected local authority" means a person specified by section 197(4)(d), (e), (f) or (g) in relation to the area.

(5) If the Mayor makes a decision under subsection (2) or (3), the Mayor must—
- (a) publicise the decision, and
- (b) notify the Secretary of State of the decision.

(6) If the Secretary of State receives notification under subsection (5) of a decision, the Secretary of State must give effect to the decision—
- (a) when making the order under section 198(2) that establishes an MDC for the area, or
- (b) by exercising the power to amend that order (see section 14 of the Interpretation Act 1978).

(7) Exercise by an MDC of functions mentioned in subsection (2) requires the Mayor's consent.

(8) If an MDC has the functions mentioned in subsection (2) it has them in place of the authority that would otherwise have them.

(9) For the purposes of subsection (2), a hereditament is a "qualifying hereditament" on a day if neither—
- (a) section 43(6) of the 1988 Act (charities and community amateur sports clubs), nor
- (b) section 47(5B) of the 1988 Act (certain organisations not established or conducted for profit),

applies on that day.

Dissolution

215 Reviews

It is the duty of the Mayor to review, from time to time, the continuing in existence of any existing MDCs.

216 Transfers of property, rights and liabilities

(1) The Mayor may at any time make a scheme (a "transfer scheme") transferring to a permitted recipient, upon such terms as the Mayor considers appropriate, any property, rights or liabilities which are for the time being vested in an MDC.

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(2) A transfer scheme may provide for a transfer to a person within paragraph (d), (e) or (f) of the definition of "permitted recipient" in subsection (4) only if the person consents.

(3) The Mayor must publish a transfer scheme as soon after it is made as is reasonably practicable.

(4) In this section—

"company" means—

(a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

(b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969;

"functional body" has the meaning given by section 424(1) of the Greater London Authority Act 1999;

"permitted recipient" means—

(a) the Greater London Authority,

(b) a functional body other than the MDC concerned,

(c) a company that is a subsidiary of the Greater London Authority,

(d) a London borough council,

(e) the Common Council of the City of London, or

(f) any other person;

"subsidiary" has the meaning given by section 1159 of the Companies Act 2006.

217 Dissolution: final steps

(1) Subsection (2) applies if no property, no rights and no liabilities are vested in an MDC ("the MDC").

(2) The Mayor may request the Secretary of State to revoke the order under section 198(2) which established the MDC.

(3) If the Secretary of State receives a request under subsection (2), the Secretary of State must make an order giving effect to the request.

(4) Where the Secretary of State makes an order under subsection (3)—

(a) the MDC is dissolved on the coming into force of the order, and

(b) the Mayor must revoke the designation of the Mayoral development area for which the MDC was established.

(5) Where the Mayor makes a revocation under subsection (4)(b), the Mayor must—

(a) publicise the revocation, and

(b) notify the Secretary of State of the revocation.

General

218 Transfer schemes: general provisions

(1) In this section—

Status: *Point in time view as at 15/01/2012. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"transfer scheme" means a scheme under section 200(1) or (4) or 216(1);

"transferee", in relation to a transfer scheme, means the person to whom property, rights or liabilities are transferred by the scheme;

"transferor", in relation to a transfer scheme, means the person from whom property, rights or liabilities are transferred by the scheme.

(2) The things that may be transferred under a transfer scheme include—

(a) property, rights or liabilities that could not otherwise be transferred;

(b) property acquired, and rights and liabilities arising, after the making of the scheme.

(3) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular—

(a) make provision for certificates issued by the Secretary of State to be conclusive evidence that property has been transferred;

(b) create rights, or impose liabilities, in relation to property or rights transferred;

(c) make provision about the continuing effect of things done (or having effect as if done) by or in relation to the transferor in respect of anything transferred;

(d) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;

(e) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;

(f) make provision for the shared ownership or use of property.

(4) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to a transfer under a transfer scheme where the transfer relates to rights or liabilities under a contract of employment (whether or not it is a relevant transfer for the purposes of those regulations).

(5) A transfer scheme may provide—

(a) for modification by agreement;

(b) for modifications to have effect from the date when the original scheme came into effect.

(6) In this section "rights" and "liabilities" include rights, or (as the case may be) liabilities, in relation to a contract of employment.

219 Guidance by the Mayor

(1) The Mayor may give guidance to an MDC as to the exercise of any of the MDC's functions.

(2) Before giving guidance under this section, the Mayor must consult such persons as the Mayor considers appropriate.

(3) The Mayor must publish any guidance given under this section as soon as reasonably practicable after giving it.

(4) The Mayor may revoke guidance given under this section.

(5) The Mayor must—

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(a) consult, before revoking guidance given under this section, such persons as the Mayor considers appropriate, and
(b) publish the fact that guidance given under this section has been revoked as soon as reasonably practicable after the revocation of the guidance.

(6) An MDC must, in exercising its functions, have regard to any guidance given to it under this section that is for the time being in force.

(7) References in this section to giving guidance include references to giving guidance by varying existing guidance.

220 Directions by the Mayor

(1) The Mayor may give an MDC general or specific directions as to the exercise of any of the MDC's functions.

(2) The Mayor must publish any directions given under this Chapter by the Mayor as soon as reasonably practicable after giving them.

(3) The Mayor—
(a) may revoke any directions given under this Chapter by the Mayor, and
(b) must publish the fact that directions given under this Chapter have been revoked as soon as reasonably practicable after the revocation.

(4) An MDC must comply with any directions given by the Mayor under this Chapter that are in force in relation to the MDC.

(5) Subsections (2) and (3)(b) do not apply to directions given under paragraph 8(1) of Schedule 21.

(6) References in this Chapter to the Mayor giving directions include references to the Mayor giving directions by varying existing directions.

221 Consents

(1) A relevant consent may be given—
(a) unconditionally or subject to conditions, and
(b) generally or specifically.

(2) The Mayor may vary or revoke a relevant consent except in the case of anything already done, or agreed to be done, on the authority of it.

(3) A variation or revocation under subsection (2) does not have effect until the Mayor has served notice of it on the person to whom the relevant consent was given.

(4) In this section “relevant consent” means a consent of the Mayor required under this Chapter.

222 Consequential and other amendments

Schedule 22 (Mayoral development corporations: consequential and other amendments) has effect.

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CHAPTER 3

GREATER LONDON AUTHORITY GOVERNANCE

223 Delegation of functions by Ministers to the Mayor

(1) The Greater London Authority Act 1999 is amended as follows.

(2) After section 39 insert—

"Delegation to Mayor of Ministers' functions

39A Delegation by Ministers

(1) A Minister of the Crown may, to such extent and subject to such conditions as that Minister thinks fit, delegate to the Mayor any of that Minister's eligible functions.

(2) A function is eligible for the purposes of subsection (1) above if—
  (a) it does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
  (b) the Secretary of State considers that it can appropriately be exercised by the Mayor.

(3) No delegation under subsection (1) above, and no variation of a delegation under subsection (1) above, may be made without the agreement of the Mayor.

(4) Before making or varying a delegation under subsection (1) above, a Minister of the Crown must consult—
  (a) each London borough council,
  (b) the Common Council, and
  (c) the Assembly.

(5) A delegation under subsection (1) above may be revoked at any time by any Minister of the Crown.

(6) Section 38 above does not apply in relation to functions delegated under subsection (1) above."

(3) In section 409 (schemes for the transfer of property, rights and liabilities)—
  (a) after subsection (1) (Ministers may make schemes transferring property etc of the Crown) insert—

    "(1A) A Minister of the Crown may make a scheme for the transfer from the Authority to the Crown of such property, rights or liabilities as the Minister of the Crown may consider appropriate in consequence of the revocation of a delegation under section 39A(1) above of a function of any Minister of the Crown.", and
  (b) in subsections (6) and (7) (provision that may be included in scheme under subsection (1) or (2)) after "subsection (1)" insert " , (1A) ".

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Commencement Information

I84 S. 223 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(cc)** (with arts. 6, 7, arts. 9-11)

224 Authority may be required to carry on commercial activities through a taxable body

(1) The Greater London Authority Act 1999 is amended as follows.

(2) After section 34 insert—

"**34A Restriction on exercise of certain powers except through a taxable body**

(1) The Authority may carry on specified activities for a commercial purpose only if it does so—
- (a) through a company that is a subsidiary of the Authority, or
- (b) in pursuance of an authorisation under section 38(1), through—
  - (i) a body that is specified in section 38(2) and is within the charge to corporation tax, or
  - (ii) a company that is a subsidiary of a body specified in section 38(2).

(2) Subsection (3) applies if—
- (a) the Authority carries on a specified activity for a commercial purpose otherwise than as permitted by subsection (1), and
- (b) the activity is actually carried on by a body (whether the Authority or another) that, disregarding this section, is in respect of the carrying-on of the activity exempt from corporation tax and income tax.

(3) The body mentioned in subsection (2)(b) is to be treated in respect of the carrying-on of the activity as not being a local authority for the purposes of—
- (a) section 984 of the Corporation Tax Act 2010 (exemption of local authorities from corporation tax),
- (b) section 838 of the Income Tax Act 2007 (exemption of local authorities from income tax), and
- (c) section 271 of the Taxation of Chargeable Gains Act 1992 (exemption of local authorities from capital gains tax).

(4) In this section—

"company" means—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
- (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969, and

"specified activity" means an activity specified in an order made by the Secretary of State with the consent of the Treasury."

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(3) In section 420(8) (orders subject to annulment) after the entry for section 25 insert— " section 34A; ".

Commencement Information

I85 S. 224 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(cc)** (with arts. 6, 7, arts. 9-11)

VALID FROM 03/05/2012

225 The London Environment Strategy

(1) Before section 352 of the Greater London Authority Act 1999 insert—

"The Mayor's Environment Strategy for London

351A **The London Environment Strategy**

(1) The Mayor shall prepare and publish a document to be known as the "London Environment Strategy" ("the Strategy").

(2) The Strategy must contain a general assessment by the Mayor of the environment in Greater London, so far as relevant to the functions of the Authority or of the Mayor.

(3) The Strategy must contain provisions dealing with the Mayor's policies and proposals in relation to each of the following matters in relation to Greater London—

(a) biodiversity;
(b) municipal waste management;
(c) climate change mitigation and energy;
(d) adaptation to climate change;
(e) air quality; and
(f) ambient noise.

(4) The provisions of the Strategy dealing with a matter specified in a paragraph of subsection (2) must also contain anything required to be included in them by any other provision of this Act.

(5) The Strategy may also include provisions dealing with the Mayor's policies and proposals in relation to any other matter relating to the environment in Greater London.

(6) In preparing or revising the provisions of the Strategy dealing with a matter mentioned in subsection (3), the Mayor's duty under section 42(1)(e) applies as if it were a duty to consult any person or body whom the Mayor considers it appropriate to consult in relation to those provisions (and section 42(2) applies accordingly).

(7) Where the Strategy is revised, the Mayor must publish it as revised.

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(8) In this Act references to the London Environment Strategy include, unless the context otherwise requires, a reference to the Strategy as revised.

351B **Guidance**

(1) The Secretary of State may give to the Mayor guidance—
  (a) about the content of the London Environment Strategy;
  (b) in relation to the preparation or revision of that Strategy.

(2) The guidance that may be given under subsection (1)(a) includes guidance as to matters which the Secretary of State considers the Mayor should, or should not, consider dealing with by formulating policies and proposals under section 351A(5).

(3) The guidance that may be given under subsection (1)(b) includes—
  (a) guidance specifying or describing the bodies or persons whom the Secretary of State considers the Mayor should consult in preparing or revising the London Environment Strategy or, as the case may be, the provisions dealing with a matter specified in the guidance;
  (b) guidance as to the evidence of environmental change or its consequences, or the predictions of environmental change or its consequences, to which the Secretary of State considers the Mayor should have regard in preparing or revising that Strategy or, as the case may be, the provisions dealing with a matter specified in the guidance.

(4) In preparing or revising the London Environment Strategy the Mayor must have regard to any relevant guidance given under this section.

351C **Directions as to the content of the London Environment Strategy**

(1) Where the Secretary of State considers that any of the conditions specified in subsection (2) is satisfied in relation to any provisions of the London Environment Strategy, the Secretary of State may give the Mayor a direction as to the content of those provisions.

(2) The conditions are—
  (a) that the provisions are inconsistent with any policies announced by Her Majesty's government with respect to the matters to which they relate and the inconsistency would have a detrimental effect on achieving any of the objectives of those policies;
  (b) that the provisions or their implementation are likely to be detrimental to any area outside Greater London;
  (c) that the provisions are inconsistent with any EU obligation of the United Kingdom.

(3) A direction under this section may require the Mayor to make specified revisions of the London Environmental Strategy.

(4) The power of the Secretary of State to give a direction under this section may only be exercised after consultation with the Mayor.

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(5) Where the Secretary of State gives a direction under this section, the Mayor must comply with the direction."

(2) Schedule 23 (which contains minor and consequential amendments to the Greater London Authority Act 1999 relating to the London Environment Strategy) has effect.

VALID FROM 03/05/2012

226 Abolition of Mayor's duty to prepare state of the environment reports

Section 351 of the Greater London Authority Act 1999 (which provides for four-yearly reports by the Mayor on the environment in Greater London) ceases to have effect.

VALID FROM 03/05/2012

227 Mayoral strategies: general duties

(1) Section 41 of the Greater London Authority Act 1999 (general duties of the Mayor in relation to his strategies) is amended as follows.

(2) In subsection (5)(a), for "and with such international obligations" substitute " , with the EU obligations of the United Kingdom and with such other international obligations of the United Kingdom ".

(3) After subsection (9) insert—

"(9A) In exercising any function the Mayor must have regard to any strategy mentioned in subsection (1) which is relevant to the exercise of that function."

(4) Subsection (10) ceases to have effect.

VALID FROM 03/05/2012

228 Simplification of the consultation process for the Mayor's strategies

(1) Section 42A of the Greater London Authority Act 1999 (which requires the Mayor to follow a two stage process in preparing or revising a strategy to which section 42 applies) ceases to have effect.

(2) In section 335 of that Act (public participation in preparation of the spatial development strategy)—

(a) subsections (1) to (1B) cease to have effect,

(b) in subsection (2), for the words from the beginning to "finally" substitute " Before ", and

(c) in subsection (3), after paragraph (a) insert—

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"(aa) the Assembly and the functional bodies;".

VALID FROM 03/05/2012

229 London Assembly's power to reject draft strategies

Before section 43 of the Greater London Authority Act 1999 (publicity and availability of strategies) insert—

"42B **Assembly's power to reject draft strategies**

(1) This section applies where the Mayor has prepared, and is ready to publish, a draft of any of the strategies to which section 41 applies (including a revised version of the strategy).

(2) But this section does not apply to a revised version of a strategy containing only revisions which—

(a) are specified in a direction as to the contents of the strategy which is given to the Mayor under this Act (or which the Mayor considers are necessary in consequence of any revisions so specified); or

(b) are not so specified but the Mayor considers to be necessary to comply with such a direction.

(3) Before publishing the strategy (or, in the case of the housing strategy, before submitting the draft to the Secretary of State) the Mayor must lay a copy of the draft before the Assembly in accordance with the standing orders of the Authority.

(4) The Mayor must not publish the strategy (or, in the case of the housing strategy, submit the draft to the Secretary of State) if, within the period of 21 days beginning with the day on which the copy is laid before the Assembly, the Assembly resolves to reject the draft.

(5) A motion for the Assembly to reject a draft strategy—

(a) must be considered at a meeting of the Assembly throughout which members of the public are entitled to be present; and

(b) is not carried unless it is agreed to by at least two thirds of the Assembly members voting."

230 Sharing of administrative etc services by London authorities

(1) Section 401A of the Greater London Authority Act 1999 (sharing of administrative etc services by the Greater London Authority and functional bodies) is amended as follows.

(2) In subsection (1) (definition of "constituent body")—

(a) for "constituent body" substitute " relevant London authority ", and

(b) at the end of paragraph (b) insert ",

(c) the London Pensions Fund Authority,

(d) the London Transport Users' Committee,

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(e) the Commissioner of Police of the Metropolis, and

(f) such person or body falling within subsection (1A) as the Secretary of State may specify by order."

(3) After that subsection insert—

"(1A) A person or body falls within this subsection if the person or body exercises functions of a public nature in relation only to—

(a) Greater London,

(b) a part of Greater London, or

(c) a part of England including Greater London or a part of Greater London."

(4) In subsection (2) (power of constituent bodies to enter into arrangements for provision of administrative etc services) for "constituent bodies" substitute " relevant London authorities ".

(5) In subsection (3) (arrangements may include discharge of functions by one constituent body on behalf of another)—

(a) for "constituent bodies" substitute " relevant London authorities ", and

(b) for "constituent body" substitute " relevant London authority ".

(6) In subsection (4) (power of constituent bodies to form joint committees) for "constituent bodies" substitute " relevant London authorities ".

(7) In subsection (5) (joint committee to be treated as separate from constituent bodies for purposes of section)—

(a) for "constituent body" substitute " relevant London authority ", and

(b) for "constituent bodies" substitute " relevant London authorities ".

(8) After subsection (6) insert—

"(6A) The Secretary of State must consult a person or body before making an order under subsection (1)(f) specifying that person or body."

(9) In section 420(8) of that Act (orders subject to annulment) after the entry for section 395 insert " section 401A(1)(f); ".

Commencement Information

I86 S. 230 in force at 15.1.2012 by S.I. 2012/57, **art. 4(1)(dd)** (with arts. 6, 7, arts. 9-11)

VALID FROM 03/05/2012

231 Transport for London: access to meetings and documents etc

(1) Part 5A of the Local Government Act 1972 (access to meetings and documents) is amended as follows.

(2) Amend section 100J (application of Part 5A to bodies other than principal councils) in accordance with subsections (3) to (6).

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(3) In subsection (1) (list of authorities treated as principal councils for the purposes of the Part) after paragraph (bd) insert—

"(be) Transport for London;".

(4) In subsection (3) (reference in section 100A(6)(a) to council's offices includes other premises at which meeting to be held) after "(bd)," insert " (be), ".

(5) After subsection (3) insert—

"(3YA) In its application by virtue of subsection (1)(be) above in relation to Transport for London, section 100E(3) has effect as if for paragraph (bb) there were substituted—

"(bb) a committee of Transport for London (with "committee", in relation to Transport for London, here having the same meaning as in Schedule 10 to the Greater London Authority Act 1999); or""

(6) After subsection (4A) insert—

"(4AA) In its application by virtue of subsection (1)(be) above in relation to Transport for London, section 100G shall have effect—

(a) with the substitution for subsection (1)(a) and (b) of—

"(a) the name of every member of the council for the time being; and

(b) the name of every member of each committee or sub-committee of the council for the time being.", and

(b) with the insertion in subsection (2)(b) after "exercisable" of ", but not an officer by whom such a power is exercisable at least partly as a result of sub-delegation by any officer"."

(7) In section 100K(1) (interpretation of Part 5A) in the definition of "committee or sub-committee of a principal council" for "section 100J(3ZA)(b)" substitute " section 100J(3YA), (3ZA)(b) ".

VALID FROM 06/04/2012

PART 9

COMPENSATION FOR COMPULSORY ACQUISITION

232 Taking account of planning permission when assessing compensation

(1) The Land Compensation Act 1961 is amended as follows.

(2) For sections 14 to 16 (assumptions as to planning permission) substitute—

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"14 Taking account of actual or prospective planning permission

(1) This section is about assessing the value of land in accordance with rule (2) in section 5 for the purpose of assessing compensation in respect of a compulsory acquisition of an interest in land.

(2) In consequence of that rule, account may be taken—

(a) of planning permission, whether for development on the relevant land or other land, if it is in force at the relevant valuation date, and

(b) of the prospect, on the assumptions set out in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, of planning permission being granted on or after that date for development, on the relevant land or other land, other than—

(i) development for which planning permission is in force at the relevant valuation date, and

(ii) appropriate alternative development.

(3) In addition, it may be assumed—

(a) that planning permission is in force at the relevant valuation date for any development that is appropriate alternative development to which subsection (4)(b)(i) applies, and

(b) that, in the case of any development that is appropriate alternative development to which subsection (4)(b)(ii) applies and subsection (4)(b)(i) does not apply, it is certain at the relevant valuation date that planning permission for that development will be granted at the later time at which at that date it could reasonably have been expected to be granted.

(4) For the purposes of this section, development is "appropriate alternative development" if—

(a) it is development, on the relevant land alone or on the relevant land together with other land, other than development for which planning permission is in force at the relevant valuation date, and

(b) on the assumptions set out in subsection (5) but otherwise in the circumstances known to the market at the relevant valuation date, planning permission for the development could at that date reasonably have been expected to be granted on an application decided—

(i) on that date, or

(ii) at a time after that date.

(5) The assumptions referred to in subsections (2)(b) and (4)(b) are—

(a) that the scheme of development underlying the acquisition had been cancelled on the launch date,

(b) that no action has been taken (including acquisition of any land, and any development or works) by the acquiring authority wholly or mainly for the purposes of the scheme,

(c) that there is no prospect of the same scheme, or any other project to meet the same or substantially the same need, being carried out in

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the exercise of a statutory function or by the exercise of compulsory purchase powers, and

(d) if the scheme was for use of the relevant land for or in connection with the construction of a highway ("the scheme highway"), that no highway will be constructed to meet the same or substantially the same need as the scheme highway would have been constructed to meet.

(6) In subsection (5)(a) "the launch date" means whichever of the following dates applies—

(a) if the acquisition is authorised by a compulsory purchase order, the date of first publication of the notice required under section 11 of the Acquisition of Land Act 1981 or (as the case may be) paragraph 2 of Schedule 1 to that Act,

(b) if the acquisition is authorised by any other order—

(i) the date of first publication, or

(ii) the date of service,

of the first notice that, in connection with the acquisition, is published or served in accordance with any provision of or made under any Act, or

(c) if the acquisition is authorised by a special enactment other than an order, the date of first publication of the first notice that, in connection with the acquisition, is published in accordance with any Standing Order of either House of Parliament relating to private bills;

and in paragraph (a) "compulsory purchase order" has the same meaning as in the Acquisition of Land Act 1981.

(7) In subsection (5)(d) references to the construction of a highway include its alteration or improvement.

(8) If there is a dispute as to what is to be taken to be the scheme mentioned in subsection (5) ("the underlying scheme") then, for the purposes of this section, the underlying scheme is to be identified by the Upper Tribunal as a question of fact, subject as follows—

(a) the underlying scheme is to be taken to be the scheme provided for by the Act, or other instrument, which authorises the compulsory acquisition unless it is shown (by either party) that the underlying scheme is a scheme larger than, but incorporating, the scheme provided for by that instrument, and

(b) except by agreement or in special circumstances, the Upper Tribunal may permit the acquiring authority to advance evidence of such a larger scheme only if that larger scheme is one identified in the following read together—

(i) the instrument which authorises the compulsory acquisition, and

(ii) any documents published with it.

(9) For the purposes of the references to planning permission in subsections (2)(a) and (b)(i) and (4)(a) and section 15(1)(b), it is immaterial whether any planning permission was granted—

(a) unconditionally or subject to conditions, or

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(b) on an ordinary application, on an outline application or by virtue of a development order,

or is planning permission that, in accordance with any direction or provision given or made by or under any enactment, is deemed to have been granted.

15 Planning permission to be assumed for acquiring authority's proposals

(1) In a case where—

(a) the relevant interest is to be acquired for purposes which involve the carrying out of proposals of the acquiring authority for development of the relevant land or part of it, and

(b) planning permission for that development is not in force at the relevant valuation date,

it is to be assumed for the purposes of section 14(2)(a) and (b)(i) and (4)(a) that planning permission is in force at the relevant valuation date for the development of the relevant land or that part of it, as the case may be, in accordance with the proposals of the acquiring authority.

(2) For the purposes of subsection (1)(b), no account is to be taken of any planning permission so granted as not to enure (while the permission remains in force) for the benefit of the land and of all persons for the time being interested in the land."

(3) For sections 17 and 18 (certification of appropriate alternative development and appeals against certificates) substitute—

"**17 Certificates of appropriate alternative development**

(1) Where an interest in land is proposed to be acquired by an authority possessing compulsory purchase powers, either of the parties directly concerned may (subject to subsection (2)) apply to the local planning authority for a certificate containing whichever of the following statements is the applicable statement—

(a) that in the local planning authority's opinion there is development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition;

(b) that in the local planning authority's opinion there is no development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition.

(2) If—

(a) the acquiring authority have served a notice to treat in respect of the interest or an agreement has been made for the sale of the interest to that authority, and

(b) a reference has been made to the Upper Tribunal to determine the amount of the compensation payable in respect of the interest,

no application for a certificate under this section may be made after the making of that reference by either of the parties directly concerned except with the consent in writing of the other party directly concerned or the permission of the Upper Tribunal.

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Changes to legislation: *Localism Act 2011 is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) An application for a certificate under this section—

(a) must contain whichever of the following statements is the applicable statement—

(i) that in the applicant's opinion there is development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition concerned;

(ii) that in the applicant's opinion there is no development that, for the purposes of section 14, is appropriate alternative development in relation to the acquisition concerned;

(b) must, if it contains a statement under paragraph (a)(i), specify—

(i) each description of development that in the applicant's opinion is, for the purposes of section 14, appropriate alternative development in relation to the acquisition, and

(ii) the applicant's reasons for holding that opinion; and

(c) must be accompanied by a statement specifying the date on which a copy of the application has been or will be served on the other party directly concerned.

(4) Where an application is made to the local planning authority for a certificate under this section in respect of an interest in land, the local planning authority must not, without the agreement of the other party directly concerned, issue a certificate to the applicant before the end of 22 days beginning with the date specified in the statement under subsection (3)(c).

(5) If a certificate under this section contains a statement under subsection (1)(a) it must also—

(a) identify every description of development (whether specified in the application or not) that in the local planning authority's opinion is, for the purposes of section 14, appropriate alternative development in relation to the acquisition concerned, and

(b) give a general indication—

(i) of any conditions to which planning permission for the development could reasonably have been expected to be subject,

(ii) of when the permission could reasonably have been expected to be granted if it is one that could reasonably have been expected to be granted only at a time after the relevant valuation date, and

(iii) of any pre-condition for granting the permission (for example, entry into an obligation) that could reasonably have been expected to have to be met.

(6) If a certificate under this section contains a statement under subsection (1)(a)—

(a) then, for the purposes of section 14, development is appropriate alternative development in relation to the acquisition concerned if, and only if, it is of a description identified in accordance with subsection (5)(a) in the certificate, and

(b) the matters indicated in accordance with subsection (5)(b) in the certificate are to be taken to apply in relation to the planning

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permission that under section 14(3) may be assumed to be in force for that development.

(7) If a certificate under this section contains a statement under subsection (1)(b) then, for the purposes of section 14, there is no development that is appropriate alternative development in relation to the acquisition concerned.

(8) References in subsections (5) to (7) to a certificate under this section include references to the certificate as varied and to any certificate issued in place of the certificate.

(9) On issuing to one of the parties directly concerned a certificate under this section in respect of an interest in land, the local planning authority must serve a copy of the certificate on the other of those parties.

(10) In assessing any compensation payable to any person in respect of any compulsory acquisition, there must be taken into account any expenses reasonably incurred by the person in connection with the issue of a certificate under this section (including expenses incurred in connection with an appeal under section 18 where any of the issues are determined in the person's favour).

(11) For the purposes of this section and sections 18 to 20, the Broads Authority is the sole district planning authority for the Broads; and here "the Broads" has the same meaning as in the Norfolk and Suffolk Broads Act 1988.

18 Appeal to Upper Tribunal against certificate under section 17

(1) Where the local planning authority have issued a certificate under section 17 in respect of an interest in land—
  (a) the person for the time being entitled to that interest, or
  (b) any authority possessing compulsory purchase powers by whom that interest is proposed to be, or is, acquired,

may appeal to the Upper Tribunal against that certificate.

(2) On any appeal under this section against a certificate, the Upper Tribunal—
  (a) must consider the matters to which the certificate relates as if the application for a certificate under section 17 had been made to the Upper Tribunal in the first place, and
  (b) must—
    (i) confirm the certificate, or
    (ii) vary it, or
    (iii) cancel it and issue a different certificate in its place,

  as the Upper Tribunal may consider appropriate.

(3) Where an application is made for a certificate under section 17, and at the expiry of the time prescribed by a development order for the issue of the certificate (or, if an extended period is at any time agreed upon in writing by the parties and the local planning authority, at the end of that period) no certificate has been issued by the local planning authority in accordance with that section, the preceding provisions of this section apply as if the local planning authority has issued such a certificate containing a statement under section 17(1)(b)."

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(4) In section 20 (power to prescribe matters relevant to Part 3) omit—
- (a) in the opening words—
  - (i) the words "and appeals under section eighteen of this Act", and
  - (ii) the word "respectively",
- (b) paragraph (b) (manner of and time for giving notice of appeal), and
- (c) paragraph (d) (which refers to provisions of section 17 not re-enacted in the section 17 substituted by this Act).

(5) Omit section 21 (proceedings for challenging validity of decision on appeal under section 18).

(6) In section 22 (interpretation of Part 3)—
- (a) in subsection (1) (meaning of "the parties directly concerned") for "authority by whom it is proposed to be acquired" substitute " acquiring authority ", and
- (b) in subsection (2) (interpretation of sections 17 and 18) for "and eighteen" substitute " to nineteen ".

(7) In each of paragraph 11 of Schedule 27 to the Local Government, Planning and Land Act 1980 and paragraph 8 of Schedule 9 to the Housing Act 1988 (modifications of section 17(2) of the 1961 Act)—
- (a) for "authority proposing to acquire it" substitute " acquiring authority ",
- (b) for "in respect thereof," substitute " in respect of the interest ", and
- (c) for "sale thereof" substitute " sale of the interest ".

(8) The amendments made in the Land Compensation Act 1961 by this section apply to the Crown to the extent set out in section 33 of that Act (Act applies in relation to acquisition by government department, including any Minister of the Crown, that is an authority possessing compulsory purchase powers as it applies to other authorities possessing those powers).

PART 10

GENERAL

233 Tax

Schedule 24 (provision about tax in connection with certain transfers and transfer schemes) has effect.

Commencement Information

I87 S. 233 in force for specified purposes at Royal Assent see s. 240(5)(o)

234 Pre-commencement consultation

(1) Subsections (2) and (3) apply for the purpose of determining whether there has been compliance with—
- (a) a requirement for consultation imposed by this Act,

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(b) a requirement for consultation which applies in relation to things done under an Act amended by this Act, or

(c) a requirement (whether or not imposed by this Act) to do something in connection with a consultation under a requirement within paragraph (a) or (b).

(2) The fact that a provision of this Act was not in force when consultation took place or anything was done in connection with a consultation is to be disregarded in determining whether there has been compliance with the requirement.

(3) The fact that consultation was carried out by a body from whom functions are transferred by this Act, or anything was done by such a body in connection with a consultation, is to be disregarded in determining whether there has been compliance with the requirement by a body to whom those functions are transferred.

(4) Subsection (3) is without prejudice to any other provision of this Act that applies to the transfer.

(5) References in this section to a requirement imposed by this Act include a requirement imposed by another Act as a result of its amendment by this Act.

235 Orders and regulations

(1) Any power of a Minister of the Crown or the Welsh Ministers to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Any power of a Minister of the Crown or the Welsh Ministers to make an order or regulations under this Act (other than a power under section 240) includes—

(a) power to make different provision for different cases, circumstances or areas, and

(b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.

(3) The power under subsection (2)(a) includes, in particular, power to make different provision for different authorities or descriptions of authority (including descriptions framed by reference to authorities in particular areas).

(4) Provision or savings made under subsection (2)(b) may take the form of amendments, or revocations, of provisions of an instrument made under legislation.

(5) The generality of the power under subsection (2)(a) is not to be taken to be prejudiced by any specific provision of this Act authorising differential provision.

(6) A Minister of the Crown may not make an order or regulations to which subsection (7) applies unless a draft of the statutory instrument containing the order or regulations (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.

(7) This subsection applies to—

(a) an order under section 5(2) that—

(i) amends any Act or provision of an Act, and

(ii) is not made (in reliance on section 7(4)) in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 7(3);

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(b) an order under section 5(3), other than one that is made only for the purpose mentioned in section 7(5)(b);
(c) an order under section 5(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose;
(d) an order under section 8(2);
(e) an order under section 52;
(f) regulations under section 81(2)(d), (6)(e) or (10) or 83(11);
(g) an order under section 87(4) or 96(7);
(h) regulations under section 101;
(i) an order under section 106(2) or 107(6);
(j) regulations under section 117;
(k) an order or regulations under section 236 which amend or repeal a provision of an Act otherwise than in consequence of provision made by or under section 232;
(l) an order or regulations under section 236 which, in consequence of provision made by section 232, amend or repeal a provision of an Act other than a local or private Act.

(8) A statutory instrument that—
(a) contains an order or regulations made by a Minister of the Crown under this Act,
(b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament, and
(c) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, the House of Commons,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(9) Subsection (8) does not apply to—
(a) an order under section 5(1) (but see section 7),
(b) an order under section 5(2) which (in reliance on section 7(4)) is made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 7(3),
(c) an order under section 15 (but see section 19),
(d) an order or regulations under Schedule 24, or
(e) an order under section 240.

(10) A statutory instrument that contains an order or regulations made by the Treasury under Schedule 24 is subject to annulment in pursuance of a resolution of the House of Commons.

(11) The Welsh Ministers may not make—
(a) an order or regulations under section 236 which amend or repeal a provision of legislation,
(b) an order under section 62,
(c) an order under section 87(4) or 96(7),
(d) regulations under section 101, or
(e) an order under section 106(4) or 107(6),

unless a draft of the statutory instrument containing the order or regulations (whether alone or with other provisions) has been laid before, and approved by a resolution of, the National Assembly for Wales.

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(12) A statutory instrument that—

(a) contains an order or regulations made by the Welsh Ministers under this Act, and

(b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, the National Assembly for Wales,

is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(13) Subsection (12) does not apply to an order under section 240.

(14) If a draft of a statutory instrument containing an order under section 52 would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

(15) In this section—

"legislation" means—

(a) an Act, or

(b) a Measure or Act of the National Assembly for Wales;

"Minister of the Crown" has the same meaning as in the Ministers of the Crown Act 1975.

236 Power to make further consequential amendments

(1) The appropriate authority may by order or regulations make such provision amending, repealing or revoking legislation as the appropriate authority considers appropriate in consequence of any provision made by or under this Act.

(2) In subsection (1) "appropriate authority"—

(a) in relation to sections 9, 10, 25, 38 to 43, 45, 46, 68, 69, 87 to 108, 148, 149 and 162(3)(b) and (c), and Parts 2, 6, 7, 9, 10 and 22 of Schedule 25 and section 237 so far as relating to those Parts, means—

(i) the Secretary of State in relation to England, and

(ii) the Welsh Ministers in relation to Wales,

(b) in relation to Part 3 and section 80, and Part 14 of Schedule 25 and section 237 so far as relating to that Part, means the Welsh Ministers, and

(c) in relation to any other provision made by or under this Act means the Secretary of State.

(3) In subsection (1) "legislation", in relation to any provision made by or under this Act, means—

(a) this Act or any Act passed before, or in the same Session as, this Act, or

(b) any instrument made under this or any other Act before the coming into force of the provision.

(4) In subsection (3) "Act" (except in the phrase "this Act") includes an Act or Measure of the National Assembly for Wales.

237 Repeals and revocations

Schedule 25 (repeals and revocations) has effect.

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Commencement Information

I88 S. 237 in force for specified purposes at Royal Assent and in force for further specified purposes at 15.1.2012 see s. 240(1)(m)(5)(q)

I89 S. 237 in force at 15.1.2012 for specified purposes for E. by S.I. 2012/57, **art. 3(c)**

I90 S. 237 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(ee)** (with arts. 6, 7, arts. 9-11)

238 Financial provisions

There is to be paid out of money provided by Parliament—

(a) any expenditure incurred by a Minister of the Crown under this Act, and

(b) any increase attributable to this Act in the sums payable under any other Act out of money so provided.

239 Extent

(1) This Act extends to England and Wales only, subject as follows.

(2) The following provisions extend also to Scotland—

(a) Part 2,

(b) section 128(1) and (3) to (6),

(c) section 233 and Schedule 24, and

(d) sections 235, 236 and 238, this section and sections 240 and 241.

(3) Section 129 extends also to Scotland, but only so far as required for the purpose mentioned in section 240(4) of the Planning Act 2008 (construction of certain cross-border pipelines).

(4) Part 2, sections 233, 235, 236 and 238, this section and sections 240 and 241, and Schedule 24, extend also to Northern Ireland.

(5) Any amendment, repeal or revocation made by this Act has the same extent as the provision to which it relates, subject to subsection (6).

(6) Any amendment or repeal made by this Act in the Transport Act 1968, and the repeal of section 121(1) of the Local Government, Planning and Land Act 1980, extend to England and Wales only.

240 Commencement

(1) The following provisions come into force at the end of 2 months beginning with the day on which this Act is passed—

(a) section 25,

(b) Chapter 8 of Part 1 so far as relating to England,

(c) section 44,

(d) section 45,

(e) section 47,

(f) section 71,

(g) section 80,

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(h) sections 111 to 113,
(i) section 143,
(j) section 177,
(k) section 183 and Schedule 18,
(l) Chapter 2 of Part 8, except section 197(3)(e) and (f) and (5), and
(m) Parts 6, 8, 14, 17 and 29 of Schedule 25, and section 237 so far as relating to those Parts.

(2) Subject to subsections (1) and (3) to (6), provisions of this Act come into force on such day as the Secretary of State may by order appoint.

(3) The following provisions so far as relating to Wales come into force on such day as the Welsh Ministers may by order appoint—
(a) Chapter 8 of Part 1,
(b) section 46,
(c) section 68,
(d) section 69,
(e) Chapter 3 of Part 5 except so far as it is brought into force by subsection (5)(f) and (g),
(f) sections 148, 149 and 162(3)(b) and (c), and
(g) Parts 7, 9, 10 and 22 of Schedule 25, and section 237 so far as relating to those Parts.

(4) The following provisions come into force on such day as the Welsh Ministers may by order appoint—
(a) section 9(1) so far as it inserts—
(i) new sections 5A and 5B so far as relating to fire and rescue authorities in Wales,
(ii) new sections 5C and 5D so far as relating to power of the Welsh Ministers to make orders, and
(iii) new sections 5F to 5L,
(b) section 9(2) so far as relating to fire and rescue authorities in Wales,
(c) section 9(3), (6) and (7)(a) and (c),
(d) section 9(7)(b) so far as it inserts new section 62(1A)(a) and (d),
(e) section 9(7)(b) so far as it inserts new section 62(1A)(b) so far as relating to power of the Welsh Ministers to make orders,
(f) section 10(1) to (3) and (5) so far as relating to fire and rescue authorities in Wales,
(g) section 10(4),
(h) Part 3,
(j) the following so far as relating to fire and rescue authorities in Wales—
(i) in Part 2 of Schedule 25, the entries for sections 5 and 19 of the Fire and Rescue Services Act 2004, and
(ii) section 237 so far as relating to those entries, and
(k) in Part 2 of Schedule 25, the entry for section 62(3) of the Fire and Rescue Services Act 2004, and section 237 so far as relating to that entry.

(5) The following provisions come into force on the day on which this Act is passed—
(a) section 23,

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(b) paragraphs 57 and 58 of Schedule 4, and section 26 so far as relating to those paragraphs,
(c) section 37,
(d) Chapter 2 of Part 5 so far as it confers power on the Secretary of State to make regulations,
(e) section 86,
(f) Chapter 3 of Part 5 so far as it confers power on the Secretary of State, or the Welsh Ministers, to make regulations or orders,
(g) sections 103 and 104,
(h) section 109(1)(b) and (2) to (6), paragraphs 1, 13(1), 18 and 19 of Schedule 8 and section 109(7) so far as relating to those provisions of that Schedule,
(i) section 110,
(j) sections 116 and 121 and Schedules 9 to 12 so far as those sections or Schedules confer power on the Secretary of State to make regulations or publish documents setting standards,
(k) sections 117 to 120,
(l) the provisions inserted by section 122 so far as they require or authorise the making of provision in a development order,
(m) section 144,
(n) sections 168 to 175,
(o) section 233 and Schedule 24 so far as they confer power on the Treasury to make regulations or orders,
(p) sections 234, 235, 236, 238, 239, this section and section 241, and
(q) Part 15 of Schedule 25, and section 237 so far as relating to that Part.

(6) Section 114 comes into force on the day after the day on which this Act is passed.

(7) An order under subsection (2), (3) or (4) may—
(a) appoint different days for different purposes;
(b) make such transitory or transitional provision, or savings, as the person making the order considers appropriate.

(8) The appropriate authority may by order make such transitory or transitional provision, or savings, as the appropriate authority considers appropriate in connection with the coming into force of any provision of this Act mentioned in subsection (1), (5) or (6).

(9) In subsection (8) "appropriate authority"—
(a) in relation to sections 25 and 45, and Part 6 of Schedule 25 and section 237 so far as relating to that Part, means—
(i) the Secretary of State in relation to England, and
(ii) the Welsh Ministers in relation to Wales,
(b) in relation to sections 80 and 104, and Chapter 3 of Part 5 so far as it confers power on the Welsh Ministers to make regulations or orders, means the Welsh Ministers, and
(c) in relation to any other provision mentioned in subsection (1), (5) or (6) means the Secretary of State.

241 Short title

This Act may be cited as the Localism Act 2011.

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