

2010 No. 898

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Petitions) (England) Order 2010

Made - - - - *22nd March 2010*

Laid before Parliament *25th March 2010*

Coming into force - - *15th June 2010*

The Secretary of State, in exercise of the powers conferred by sections 14(4) and 19(1) of the Local Democracy, Economic Development and Construction Act 2009(a), makes the following Order:

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Local Authorities (Petitions) (England) Order 2010 and shall come into force on 15th June 2010.

(2) In this Order—

“the Act” means the Local Democracy, Economic Development and Construction Act 2009;

“licensing decision” means—

(a) any decision in relation to—

(i) an application for the grant, variation or review of any authorisation under Part 3 or 4 of the Licensing Act 2003 (premises licences and club premises certificates)(b), or

(ii) a hearing or appeal in respect of any such application;

(b) any decision in relation to—

(i) an application for the grant, renewal or transfer of a licence under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (control of sex establishments)(c),

(ii) a request for the variation of any term, condition or restriction contained in such a licence, or

(iii) the revocation of such a licence;

(c) any decision in relation to—

(i) an application for a licence, permit or registration under the Gambling Act 2005(d),

(ii) a request for the variation of any term, condition or restriction associated with any such licence, permit or registration, or

(iii) the revocation of any such licence, permit or registration; and

(a) 2009 c. 20. As to “the appropriate national authority”, in relation to English authorities, see the definition in section 22(1).

(b) 2003 c. 17. See the definition of “authorisation” in section 2(4) of that Act.

(c) 1982 c. 30 to which there have been numerous amendments, the most recent of which were made by the Policing and Crime Act 2009 (c. 26).

(d) 2005. c. 19.

- (d) any enforcement decision made under any of the Acts mentioned in sub-paragraphs (a) to (c) above, or subordinate legislation made under those Acts;

“the Planning Acts” means the Town and Country Planning Act 1990(a), the Planning (Listed Building and Conservation Areas) Act 1990(b), the Planning (Hazardous Substances) Act 1990(c) and the Planning Act 2008(d);

“planning decision” means—

- (a) any decision on an application under the Planning Acts or subordinate legislation made under those Acts for any agreement, approval, consent or permission,
- (b) any enforcement decision relating to any development within the meaning of those Acts(e), or
- (c) any decision in relation to the preparation, revision or adoption of a development plan document within the meaning of section 37(3) of the Planning and Compulsory Purchase Act 2004(f) or community infrastructure levy charging schedule within the meaning of section 211(1) of the Planning Act 2008; and

“right of recourse to a review” does not include any right to make a complaint to the Commission for Local Administration pursuant to Part 3 of the Local Government Act 1974(g).

- (3) This Order applies in relation to England only.

Excluded matters

2. Subject to article 3, for the purposes of subsection (1)(a) of section 14 of the Act (requirement to take steps), the following matters are not to be regarded as relating to a function of a principal local authority—

- (a) any matter relating to a planning decision;
- (b) any matter relating to a licensing decision;
- (c) any other matter relating to an individual or entity in respect of which that individual or entity has a right of recourse to a review or right of appeal conferred by or under any enactment.

Systematic failure in discharge of functions not an excluded matter

3. A matter does not fall within article 2 if it consists of an allegation that a function for which the authority is responsible has not been discharged at all or that its discharge has failed or is failing on a systematic basis, notwithstanding the fact that the allegation specifies or refers to a planning decision, a licensing decision or a matter of the description referred to in paragraph (c) of that article.

Specified number for petition requiring debate

4.—(1) The number to be specified by an authority pursuant to section 15(4) of the Act (requirement to debate) must be no greater than 5% of the total local authority population.

(2) For the purposes of paragraph (1) “total local authority population” means the estimate of the population of the area of the authority contained in the Registrar General’s population estimates for England and Wales published by the Office of National Statistics.

(a) 1990 c. 8.

(b) 1990 c.9.

(c) 1990 c.10.

(d) 2008 c. 29.

(e) “Development” is defined in section 55 of the Town and Country Planning Act 1990 and is used with the same meaning in the other Planning Acts, with some modification, in the case of the Planning Act 2008, where the definition is subject to sections 32(2) and (3) of that Act.

(f) 2004 c.5. Section 37(3) was amended by section 180(1) and (6)(a) of the Planning Act 2008 (c. 29).

(g) 1974 c. 7.

Signed by authority of the Secretary of State for Communities and Local Government

22nd March 2010

Barbara Follett
Parliamentary Under Secretary of State
Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies, for England, matters that are not to be relevant matters for the purposes of section 14(1) of the Local Democracy, Economic Development and Construction Act 2009. Consequently, the petition schemes of principal local authorities in England are not required to make provision requiring the authority to take steps in response to petitions dealing with those matters.

Article 2 of the Order provides that a matter relating to a licensing decision or a planning decision (both defined in article 1(3)); or a matter relating to an individual or entity where there is already a statutory right to a review or appeal (other than the right to complain to the Commission for Local Administration – commonly known as the Local Government Ombudsman) are not relevant matters.

Article 3 provides that a petition which calls for action in respect of an allegation of systematic failure of an authority to discharge a function for which the authority is responsible is a relevant matter, notwithstanding that the petition specifies matters which would otherwise be excluded by virtue of article 2.

Article 4 specifies the maximum number of signatures that authorities may include in their petition schemes as being required to trigger a debate of the full council. That figure is 5% of the local population as estimated by the Office of National Statistics.

No impact assessment has been prepared in respect of this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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£4.00