



## 2010 CHAPTER 7

### PART 2

#### LOCAL GOVERNMENT REORGANISATION

##### CHAPTER 2

##### CONTROL OF DISPOSALS AND CONTRACTS OF EXISTING COUNCILS

##### **Control of disposals and contracts of existing councils**

**10.—**(1) The Department may direct that, with effect from a specified date, an existing council shall not, without the written consent of a specified statutory transition committee—

- (a) dispose of any land if the consideration for the disposal exceeds a specified sum;
  - (b) enter into any capital contract—
    - (i) under which the consideration payable by the council exceeds a specified sum; or
    - (ii) which includes a term allowing the consideration payable by the council to be varied;
  - (c) enter into any non-capital contract under which the consideration payable by the council exceeds a specified sum, where—
    - (i) the period of the contract extends beyond a specified date; or
    - (ii) under the terms of the contract, that period may be extended beyond that date.
- (2) In subsection (1)—

“capital contract” means a contract as regards which the consideration payable by the council is capital expenditure;

“capital expenditure” means expenditure which falls to be capitalised in accordance with proper practices (within the meaning of Article 6(3) of the [Local Government \(Northern Ireland\) Order 2005 \(NI 18\)](#));

“non-capital contract” means a contract which is not a capital contract.

(3) A direction under subsection (1)(b) or (c) may provide that the consent of a specified statutory transition committee is not required in relation to a contract of a specified description.

(4) A direction—

- (a) shall be in writing;
- (b) may make different provision in relation to different matters for which consent is required;
- (c) may be varied or revoked by a subsequent direction.

(5) In this Chapter—

“direction” means a direction under this section;

“specified”, in relation to a direction, means specified in the direction;

“statutory transition committee” means a committee established under section 15.

(6) References in this Chapter to disposing of land include references to—

- (a) dealing with land in any way mentioned in section 45(3) of the Interpretation Act (Northern Ireland) [1954 \(c. 33\)](#);
- (b) entering into a contract to dispose of land;
- (c) granting an option to acquire land.

### **Directions: supplementary**

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

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

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

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

(4) Where—

- (a) a question arises in relation to a direction as to the value of any consideration, and
  - (b) the existing council concerned and the specified statutory transition committee fail to reach agreement,
- the value is to be determined by the Department.

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

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

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

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

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

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

**13.**—(1) This section applies where—

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

(2) The existing council may refer the decision of the statutory transition committee to the Department.

(3) Where the decision of a statutory transition committee is referred to the Department under this section, the Department may—

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

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

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

#### **Contravention of direction**

**14.—**(1) A disposal made in contravention of a direction is void.

(2) A contract entered into by an existing council in contravention of a direction is not enforceable against a successor council.

(3) A contract which apart from this subsection would be a certified contract for the purposes of Part 1 is not a certified contract for those purposes if it is entered into in contravention of a direction.