Local Democracy, Economic Development and Construction Act 2009

2009 CHAPTER 20

PART 1

DEMOCRACY AND INVOLVEMENT

CHAPTER 5

LOCAL FREEDOMS AND HONORARY TITLES

27 Local freedoms

(1) The Local Government Act 1972 (c. 70) is amended as follows.

(2) In section 248 (freemen and inhabitants of existing boroughs), after subsection (1) insert—

"(1A) Where the son of a freeman of a city or town may claim to be admitted as a freeman of that place, the daughter of a freeman may likewise claim to be so admitted.

(1B) The son or daughter of a freeman of a city or town shall be admitted as a freeman whether born before or after the admission, as a freeman, of his or her freeman parent and wherever he or she was born.

(1C) In subsections (1A) and (1B) "freeman" excludes a freeman of the City of London."

Commencement Information

I1 S. 27 in force at 12.1.2010, see s. 148(1)(d)

Changes to legislation: *There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Chapter 5. (See end of Document for details)*

28 Power to amend law relating to local freedoms

(1) The Local Government Act 1972 (c. 70) is amended as follows.

(2) In section 248 (freemen and inhabitants of existing boroughs), after subsection (1C) insert—

"(1D) Schedule 28A (amendment of laws relating to freedom of city or town) shall have effect."

(3) Before Schedule 29 insert—

"SCHEDULE 1

AMENDMENT OF LAWS RELATING TO FREEDOMS OF CITIES AND TOWNS

Introductory

1 (1) This Schedule makes provision for the laws relating to freedom of a city or town to be amended by, or pursuant to, a resolution of persons admitted to that freedom.

(2) The powers conferred by this Schedule are without prejudice to any other power to amend the law relating to freedom of a city or town.

(3) In this Schedule—

"appropriate national authority" means—

(a) the Secretary of State, in relation to a city or town in England;

(b) the Welsh Ministers, in relation to a city or town in Wales;

"enactment" includes in particular—

(a) a royal charter or other instrument made under the royal prerogative;

(b) any instrument made under an enactment.

Powers to amend law in respect of women and civil partners

2 (1) The purposes of this paragraph are—

(a) to provide for a woman to have the right to be admitted to freedom of a city or town in any or all circumstances where a man has that right;

(b) to enable a woman admitted to the freedom of a city or town (whether pursuant to this Schedule or otherwise) to use the title "freewoman";

(c) to put a civil partner or surviving civil partner of a person admitted to freedom of a city or town in the same position as a spouse or surviving spouse of such a person.

(2) The appropriate national authority may by order amend an Act for any purpose of this paragraph, if the amendment is proposed by a qualifying resolution.

(3) A qualifying resolution may amend—

(a) any enactment other than an Act, or

(b) the law established by custom,

for any purpose of this paragraph.

(4) An amendment may not be made under this paragraph for the purpose specified in sub-paragraph (1)(a) if the effect of the amendment in any case or circumstances would be to deprive a man of the right to be admitted to freedom of a city or town.

(5) A provision of a public general Act may not be amended under this paragraph unless the provision relates only to—

(a) a particular city or town, or

(b) a specified group of cities or towns.

Power to amend royal charters

3 (1) Her Majesty may by Order in Council amend the law relating to rights of admission to freedom of a city or town where—

(a) the law is contained in a royal charter; and

(b) the amendment is proposed in a qualifying resolution.

(2) It is immaterial for the purposes of sub-paragraph (1) above whether the amendment is one which could be made under paragraph 2(3) above.

(3) An Order in Council under this paragraph is not a statutory instrument for the purposes of the Statutory Instruments Act 1946.

Powers to amend laws established by custom

4 (1) A qualifying resolution may amend the law relating to rights of admission to freedom of a city or town where the law is established by custom.

(2) The power in sub-paragraph (1) above does not include power to make an amendment which could be made under paragraph 2(3) above.

Consequential amendments

5 (1) The power to make an amendment under paragraph 2(2) above includes power (exercisable in the same way and subject to the same conditions) to make consequential amendments to—

(a) any enactment, or

(b) the law established by custom.

(2) The power to make an amendment under paragraph 2(3), 3 or 4 above includes power (exercisable in the same way and subject to the same conditions) to make consequential amendments to—

(a) any enactment other than an Act, or

(b) the law established by custom.

(3) Where an amendment is made under paragraph 2(3), 3 or 4 above, the appropriate national authority may by order make consequential amendments to any Act, if the consequential amendments are proposed by a qualifying resolution.

6 (1) Where by virtue of an amendment under paragraph 2, 3 or 4 above a person has the right of admission to freedom of city or town, the following amendments

in particular are to be regarded as consequential for the purposes of this Schedule—

(a) an amendment for the purpose of putting that person in the same position as any other person admitted to that freedom;

(b) an amendment for the purpose of putting a person who by marriage, civil partnership, descent, employment or otherwise is or has been related to or associated with that person in the same position as a person correspondingly related to or associated with any other person admitted to that freedom;

(c) an amendment for the purpose of putting a person who is or has been related by marriage or civil partnership to a surviving spouse or civil partner or child of that person in the same position as a person correspondingly related to the surviving spouse or civil partner or child of any other person admitted to that freedom.

(2) In determining for the purposes of sub-paragraph (1) above whether one relationship corresponds with another, differences of gender are to be ignored.

Qualifying resolutions

7 (1) For the purposes of this Schedule, a "qualifying resolution" is a resolution—

(a) in relation to which the requirements of paragraph 8 below are complied with; and

(b) which is passed in accordance with paragraph 9 below.

8 (1) The requirements of this paragraph in relation to a resolution are as follows.

(2) The resolution must be proposed by three or more eligible persons.

(3) Voting on the resolution is to be by postal ballot.

(4) The proposers must make reasonable endeavours to secure that each eligible person is sent—

(a) a notice of the ballot, and

(b) a ballot paper.

(5) The notice must state—

(a) the resolution proposed,

(b) the purpose of the resolution, and

(c) the date by which ballot papers must be returned (the "voting date").

(6) Any notice and ballot paper must be sent at least 28 days before the voting date.

(7) For the purposes of this paragraph, a notice or ballot paper is sent to a person on the day it is posted by first class post to the last known address of that person.

9 (1) A resolution is passed in accordance with this paragraph if—

(a) it is passed by a majority of the eligible persons voting on the resolution,

(b) the number of eligible persons voting on the resolution is at least 10% of the number of eligible persons to whom notice is sent under

paragraph 8(4) above, and " the resolution is notified to the relevant council within six weeks from the voting date. "

(2) For the purposes of sub-paragraph (1)(c) above, the resolution is notified by delivery of the following documents to the relevant council—

(a) a copy of the resolution;

(b) a copy of the notice sent under paragraph 8(4) above;

(c) a statement in writing of the names of the eligible persons to whom the notice was sent;

(d) a statement in writing of the number of eligible persons who voted on the resolution and of the number who voted in favour of it;

(e) all ballot papers returned in accordance with the notice.

(3) The relevant council must keep the documents delivered under sub-paragraph (2) above, but need not keep those within paragraphs (b) to (e) of that sub-paragraph if it considers that it is no longer reasonably necessary to do so.

10 In paragraphs 8 and 9 above—

"eligible person" means a person whose name is on the roll of persons admitted to the freedom of the city or town concerned kept under section 248(2) above;

"relevant council" means—

(a) in relation to a city or town in England—

(i) the district council in whose area the city or town is situated, or

(ii) if the city or town is not in the area of a district council, the county council in whose area it is situated;

(b) in relation to a city or town in Wales, the principal council in whose area the city or town is situated.

Order-making powers: supplementary

11 (1) A statutory instrument containing an order under this Schedule which contains an amendment to a public general Act is subject to annulment—

(a) by either House of Parliament, in the case of an order made by the Secretary of State;

(b) by the National Assembly for Wales, in the case of an order made by the Welsh Ministers."

(4) In section 248—

(a) in subsection (1), after "this section", in both places, insert " and Schedule 28A ";

(b) in subsection (2), for "freemen" substitute " persons admitted to the freedom ";

(c) in subsection (3)—

(i) for "as a freeman" substitute " to the freedom ";

(ii) for "his", in both places, substitute " the person's ";

(iii) for "freemen" substitute " persons admitted to the freedom ";

(d) in subsection (4), in paragraphs (a), (b) and (c), for "freeman" substitute " person admitted to the freedom ".

Changes to legislation: *There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Chapter 5. (See end of Document for details)*

Commencement Information

I2 S. 28 in force at 12.1.2010, see s. 148(1)(d)

29 Honorary titles

(1) Section 249 of the Local Government Act 1972 (c. 70) (honorary aldermen and freemen) is amended as follows.

(2) In the heading, for "Honorary aldermen and freemen" substitute " Honorary titles ".

(3) In subsection (1) (power of principal councils to confer title of honorary aldermen), after "honorary aldermen" insert " or honorary alderwomen ".

(4) In subsection (2)—

(a) after "honorary alderman" insert " or honorary alderwoman ";

(b) after "as alderman" insert " or alderwoman ";

(c) after "as an alderman" insert " or alderwoman ".

(5) In subsection (4), after "honorary alderman" insert " or honorary alderwoman ".

(6) After that subsection insert—

"(4A) A principal council may spend such reasonable sum as they think fit for the purpose of presenting an address, or a casket containing an address, to a person on whom they have conferred the title of honorary alderman or honorary alderwoman."

(7) For subsections (5) to (9) (honorary freemen) there is substituted—

"(5) Subject as follows, a relevant authority may admit to be honorary freemen or honorary freewomen of the place or area for which it is the authority—

(a) persons of distinction, and

(b) persons who have, in the opinion of the authority, rendered eminent services to that place or area.

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

(a) a principal council;

(b) a parish or community council;

(c) charter trustees in England constituted—

(i) under section 246 of the Local Government Act 1972,

(ii) by the Charter Trustees Regulations 1996 (SI 1996/263), or

(iii) under Part 1 of the Local Government and Public Involvement in Health Act 2007.

(7) The power in subsection (5) above is exercisable by resolution of the relevant authority.

(8) A resolution under subsection (7) above must be passed—

(a) at a meeting of the relevant authority which is specially convened for the purpose and where notice of the object of the meeting has been given; and

(b) by not less than two-thirds of the members of the relevant authority (or, in the case of charter trustees, of the trustees) who vote on it.

(9) A relevant authority may spend such reasonable sum as it thinks fit for the purpose of presenting an address or a casket containing an address to a person on whom the authority has conferred the title of honorary freeman or honorary freewoman under subsection (5) above.

(10) The admission of a person as honorary freeman or honorary freewoman does not confer on that person any of the rights referred to in section 248(4) above."

Commencement Information

I3 S. 29 in force at 12.1.2010, see s. 148(1)(d)

Changes to legislation:
There are currently no known outstanding effects for the Local Democracy, Economic Development and Construction Act 2009, Chapter 5.