



2002 CHAPTER 4

Power to modify statutory provisions and confer new powers

3.—(1) If the Department thinks that a statutory provision prevents or obstructs compliance by councils with the duty under section 1(1), the Department may by order make provision modifying or excluding the application of the provision in relation to councils.

(2) The Department may by order make provision conferring on councils any power which the Department considers necessary or expedient to permit or facilitate compliance with the duty under section 1(1).

(3) In exercising a power conferred under subsection (2) a council shall have regard to any guidance issued by the Department.

(4) An order under this section may—

- (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
- (b) amend a statutory provision;
- (c) include supplementary, incidental, consequential and transitional provisions.

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

(6) Before the Department makes an order under this section it shall consult—

- (a) persons appearing to it to represent councils; and
- (b) such other persons as appear to the Department to be representative of interests affected by the proposals.

(7) If, following consultation under subsection (6), the Department proposes to make an order under this section it shall lay before the Assembly a document explaining the proposals and, in particular—

- (a) setting them out in the form of a draft order; and
- (b) giving details of consultation under subsection (6).

(8) Where a document relating to proposals is laid before the Assembly under subsection (7), no draft of an order under this section to give effect to the proposals (with or without modification) shall be laid before the Assembly until after the expiry of the statutory period beginning with the day on which the document was laid.

(9) In preparing a draft order under this section the Department shall consider any representations made during the period mentioned in subsection (8).

(10) A draft order laid before the Assembly in accordance with subsection (5) must be accompanied by a statement of the Department giving details of—

- (a) any representations considered in accordance with subsection (9); and
- (b) any changes made to the proposals contained in the document laid before the Assembly under subsection (7).