

Status: Point in time view as at 02/06/2014.

Changes to legislation: There are currently no known outstanding effects for the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010, PART 2. (See end of Document for details)



2010 CHAPTER 7

PART 2

LOCAL GOVERNMENT REORGANISATION

CHAPTER 1

INTRODUCTORY

Introductory

9.—(1) In this Part—

“existing council” means a district council constituted under section 1 of the Local Government Act (Northern Ireland) 1972 (c. 9) as in force on the date on which this section comes into operation;

“new council” means a district council to be constituted under that section as amended by section 3(1) of the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7).

(2) For the purposes of this Part—

(a) “successor council”, in relation to an existing council, means the new council whose district is, in accordance with section 1 of the Local Government (Boundaries) Act (Northern Ireland) 2008, to incorporate the whole or the major part of the district of the existing council; and

(b) in relation to a new council, an existing council is a “predecessor council” if the whole or the major part of the district of the existing council is, in accordance with that section, to be incorporated in the district of the new council.

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CHAPTER 2

CONTROL OF DISPOSALS AND CONTRACTS OF EXISTING COUNCILS^[F1] AND THEIR FINANCES]

Textual Amendments

- F1** Words in Pt. 2 Ch. 2 added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014](#) (c. 8), **ss. 116(2)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

Control of disposals and contracts of existing councils^[F2] and their finances]

10.—(1) The Department may direct that, with effect from a specified date, an existing council shall not, without the written consent of ^[F3]its successor council or]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.
- ^[F4](d) borrow any sum exceeding a specified sum (or any sums exceeding in total any specified sum);
- (e) reduce any financial reserve of a specified description below a specified limit.]

(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 ^[F5]a successor council or]a specified statutory transition committee is not required in relation to a contract of a specified description.

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- (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.

Textual Amendments

- F2** Words in s. 10 added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), **ss. 116(3)(a)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F3** Words in s. 10(1) added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), **ss. 116(3)(b)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F4** S. 10(1)(d)(e) added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), **ss. 116(3)(c)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F5** Words in s. 10(3) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), **ss. 116(3)(d)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

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—

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- (a) a question arises in relation to a direction as to the value of any consideration, and
 - (b) the existing council concerned and [^{F6} its successor council or] the specified statutory transition committee fail to reach agreement,
- the value is to be determined by the Department.

Textual Amendments

F6 Words in s. 11(4)(b) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014](#) (c. 8), **ss. 116(4)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

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 [^{F7} a successor council or] 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 [^{F8} the successor council or] the statutory transition committee or is given subject to conditions.

(2) The existing council may refer the decision of [^{F9} the successor council or] the statutory transition committee to the Department.

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- (3) Where the decision ^{F10}... 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 [^{F11}successor council or] statutory transition committee; and
 - (b) is final.

Textual Amendments

- F7** Words in s. 13(1)(a) inserted (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), **ss. 116(5)(a)(i)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F8** Words in s. 13(1)(b) inserted (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), **ss. 116(5)(a)(ii)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F9** Words in s. 13(2) inserted (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), **ss. 116(5)(b)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F10** Words in s. 13(3) repealed (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), **ss. 116(5)(c)**, 129, **Schs. 10** (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1 and words expressed to be repealed by Sch. 10 of said Act and SR 2015/209
- F11** Words in s. 13(4)(a) inserted (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8), **ss. 116(5)(d)**, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

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.

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CHAPTER 3

STATUTORY TRANSITION COMMITTEES

Statutory transition committees: constitution

15.—(1) In relation to each new council there shall be a body called a statutory transition committee.

(2) A statutory transition committee shall be a body corporate to which, subject to the provisions of this Chapter, section 19 of the Interpretation Act (Northern Ireland) 1954 (c. 33) shall apply.

(3) The Department shall by regulations provide for the establishment of statutory transition committees.

(4) Those regulations shall ensure that—

- (a) the statutory transition committee in relation to the new council for the district of Belfast consists of members of the predecessor council and members of Castlereagh Borough Council and Lisburn City Council;
- (b) the statutory transition committee in relation to any other new council consists of members of the predecessor councils.

(5) Those regulations may make provision as to—

- (a) the appointment of the Chair and other members of a statutory transition committee (including the number of members to be appointed from each council mentioned in subsection (4) and any conditions to be fulfilled for appointment);
- (b) the tenure of office of the Chair and other members (including the circumstances in which they cease to hold office or may be removed or suspended from office).

(6) Regulations may make provision for, or in connection with—

- (a) the procedure to be followed by statutory transition committees;
- (b) the payment of allowances to members of statutory transition committees;
- (c) the making available to statutory transition committees of the facilities, staff and premises of existing councils;
- (d) such other matters in connection with the efficient and effective discharge by statutory transition committees of their functions as the Department thinks appropriate.

(7) The Department may make payments to statutory transition committees on such terms and conditions as the Department may determine.

(8) Except to the extent to which regulations otherwise provide, a statutory transition committee—

- (a) is a local government body for the purposes of Part 2 of the Local Government (Northern Ireland) Order 2005 (NI 18); but

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- (b) is not to be treated as a joint committee of any existing councils.

Statutory transition committees: functions

16.—(1) The functions of a statutory transition committee are exercisable for the purpose of preparing for, and giving full effect to, the reorganisation of local government provided for by the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7) and, in particular for facilitating—

- (a) the exercise of their functions by new councils as from their initial constitution; and
- (b) the winding-up of existing councils and the transfer of their assets, liabilities and staff.

(2) Subject to any provision made by regulations, a statutory transition committee may do anything which appears to it to be necessary or expedient for the purpose mentioned in subsection (1).

(3) The Department may by regulations make provision for, or in connection with, conferring powers or imposing duties on statutory transition committees.

(4) In particular, regulations may make provision for, or in connection with, conferring powers or imposing duties on a statutory transition committee to—

- (a) make a district rate (within the meaning of Article 6(3) of the Rates (Northern Ireland) Order 1977 (NI 28));
- (b) appoint staff for the purposes of a new council.

Power to modify existing legislation

17.—(1) Regulations under section 15 or 16 may—

- (a) provide for any local government or rating legislation which applies in relation to an existing council to apply, with or without modifications, in relation to a statutory transition committee;
- (b) provide for any local government or rating legislation which (but for the regulations) would apply in relation to an existing council not to apply in relation to that council or to apply with modifications.

(2) In subsection (1)—

“local government legislation” means—

- (a) the Local Government Act (Northern Ireland) 1972 (c. 9);
- (b) the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 (NI 3);
- (c) Part 2 of the Local Government (Northern Ireland) Order 2005 (NI 18);
- (cc) [^{F12}the Local Government Finance Act (Northern Ireland) 2011;]
- (cd) [^{F13}the Local Government Act (Northern Ireland) 2014;]

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- (d) Chapter 2; and
 - (e) any regulations or orders made under any of the above;
- “rating legislation” means—
- (a) the Rates (Northern Ireland) Order 1977 (NI 28); and
 - (b) any regulations or orders made under that Order.

Textual Amendments

- F12** S. 17(2)(cc) inserted (1.4.2012) by virtue of [Local Government Finance Act \(Northern Ireland\) 2011 \(c. 10\)](#), ss. 45, 47(2), [Sch. 1 para. 7](#); S.R. 2011/306, [art. 2\(3\)](#)
- F13** Words in s. 17(2) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 9 para. 7](#) (with s. 124(4)); S.R. 2014/153, [art. 2](#), [Sch. 1](#)

Guidance to statutory transition committees

18.—(1) The Department may issue guidance to statutory transition committees as to the exercise of their functions.

(2) It is the duty of a statutory transition committee to have regard to any guidance issued by the Department.

CHAPTER 4

SEVERANCE PAYMENTS TO COUNCILLORS

Severance payments to councillors

19.—(1) The Department may, by regulations, provide for the making by an existing district council of payments (“severance payments”) to, or in respect of, persons who—

- (a) immediately prior to the start of the prescribed period were members of the council,
 - (b) ceased, by resignation, to be members of the council before the end of that period, and
 - (c) satisfy such other conditions as may be prescribed.
- (2) The regulations may include provision as to—
- (a) the amounts of severance payments and the methods of calculating those amounts;
 - (b) the procedure for applying for severance payments and for dealing with such applications.

(3) If regulations under subsection (2)(a) provide for the amount of any severance payment payable to, or in respect of, a person to be calculated by reference to any period for which that person was a councillor, then for the

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purposes of that calculation there shall be disregarded any period in which that person was both a councillor and—

- (a) a member of the Assembly (within the meaning of the Northern Ireland Act 1998);
- (b) a member of the House of Commons; or
- (c) a member of the European Parliament.

(4) In section 4(1) (disqualifications for being elected, or being, a councillor) of the Local Government Act (Northern Ireland) 1972 (c. 9), after paragraph (e) add—

- “(f) he has received a severance payment (within the meaning of section 19 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010).”.

CHAPTER 5

POWER TO MODIFY LEGISLATION

Power to modify legislation in connection with local government re-organisation

20.—(1) The Department may by regulations make such modifications of local government or rating legislation as in the opinion of the Department are necessary or expedient for the purpose of preparing for, or giving full effect to, the reorganisation of local government provided for by the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7).

(2) In this section “local government legislation” and “rating legislation” have the meanings given by section 17(2).

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