

*Status: Point in time view as at 13/05/2014. This version of this part contains provisions that are not valid for this point in time.*

**Changes to legislation:** There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 2014, PART 16. (See end of Document for details)



## 2014 CHAPTER 8

### PART 16

#### MISCELLANEOUS

VALID FROM 02/06/2014

#### *Guidance*

#### **Guidance**

**111.**—(1) The Department may issue guidance to councils for the purposes of this Act.

(2) Before issuing any guidance under this section the Department must consult councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as appear to the Department to be appropriate.

(3) A council must have regard to any guidance issued under this section.

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VALID FROM 02/06/2014

## *Rates*

### **Transitional rate relief in consequence of changes in local government districts**

**112.**—(1) Article 33A of the Rates (Northern Ireland) Order 1977 (transitional rate relief) is amended as follows.

(2) In paragraph (1), for the words “this Article” there shall be substituted the words “ paragraph (2) ”.

(3) In paragraph (2), for the word “Article” there shall be substituted the word “ paragraph ”.

(4) After paragraph (2) there shall be inserted the following paragraphs—

“(2A) Where paragraph (2B) applies, the Department may, by order subject to negative resolution,—

- (a) provide for such provisions of this Order as may be specified in the order not to apply or apply subject to modifications specified in the order; and
- (b) provide for so much of the amount of the sum chargeable in respect of rates due in respect of any hereditament as relates to a district rate to be such as is determined in accordance with rules specified in the order.

(2B) This paragraph applies if it appears to the Department necessary or expedient to make provision under paragraph (2A) in connection with changes to local government districts (including changes before the commencement of section 112(4) of the Local Government Act (Northern Ireland) 2014).

(2C) The Department must within two years of the making of an order under paragraph (2A) lay before the Assembly a report on the operation of any transitional rate relief scheme under that paragraph including—

- (a) the Department's assessment of the likely or actual percentage increase in district rates payable by ratepayers in each affected district as a consequence of the termination of the scheme; and
- (b) consideration of possible further mitigating measures.”.

### **Commencement of the Local Government (Boundaries) Order (Northern Ireland) 2012**

**113** In Article 1 of the Local Government (Boundaries) Order (Northern Ireland) 2012 (SR 2012 No 421) (citation and commencement), in

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paragraph (4) (commencement for the purposes of making and levying rates), for the words from the beginning to “come into effect on” there shall be substituted the words “ This Order does not apply for the purposes of making and levying of rates, as provided in Part II of the Rates (Northern Ireland) Order 1977, in relation to a year beginning before ”.

VALID FROM 02/06/2014

### *Transferred functions grant*

#### **Transferred functions grant**

**114.**—(1) In the Local Government Finance Act (Northern Ireland) 2011, after section 27 (rates support grant) there shall be inserted the following section—

#### **“27A Transferred functions grant**

(1) The Department shall for any prescribed financial year make a grant under this section to councils.

(2) In this section “transferred functions grant” means the grant payable under this section for any financial year.

(3) The transferred functions grant is payable only to a council which is a new council within the meaning of Part 2 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010.

(4) The amount of the transferred functions grant payable to a council for any financial year is the amount equal to the difference between—

(a) the amount of the product of the district rate for that year (within the meaning of the Rates (Northern Ireland) Order 1977) so far as it relates to the rateable net annual values of the hereditaments in the district of that council; and

(b) the amount which would have been the amount of that product if the total of the rateable net annual values of the hereditaments in the district of that council had been increased by a prescribed amount.

(5) Subsection (4) is subject to section 28 (reductions in grants) and to section 63(4) of the Local Government Act (Northern Ireland) 2014.

(6) Payments in respect of transferred functions grant shall be made to a council at such times as the Department may determine.”.

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(2) In section 28 of that Act (reductions in grants), in subsections (2)(a) and (6)(b) and in the heading for “or 27” there shall be substituted “, 27 or 27A”.

VALID FROM 02/06/2014

### *Contracts and disposals*

VALID FROM 01/02/2015

#### **Exclusion of non-commercial considerations**

**115** In Article 19 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (council contracts: exclusion of non-commercial considerations), after paragraph (6) there shall be added the following paragraphs—

“(7) The Department may by order provide, in relation to councils, for a specified matter to cease to be a non-commercial matter for the purposes of this Article.

(8) An order under paragraph (7) may—

- (a) provide for a matter to cease to be a non-commercial matter for specified purposes or to a specified extent;
- (b) apply in relation to specified councils, functions or contracts;
- (c) amend a statutory provision;
- (d) include supplementary, incidental, consequential and transitional provisions.

(9) No order shall be made under paragraph (7) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.”

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

**116.—(1)** Chapter 2 of Part 2 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010 (control of disposals and contracts of existing councils) is amended as follows.

(2) At the end of the heading to Chapter 2 there shall be added the words “AND THEIR FINANCES”.

(3) In section 10 (control of disposals and contracts of existing councils)—

- (a) at the end of the heading there shall be added the words “and their finances”;

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- (b) in subsection (1), after the words “consent of” there shall be added the words “ its successor council or ”;
- (c) at the end of subsection (1) there shall be added the following paragraphs—
  - “(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.”;
- (d) in subsection (3), after the words “consent of” there shall be inserted the words “ a successor council or ”.
- (4) In section 11 (directions: supplementary), in subsection (4)(b) after the words “council concerned and ” there shall be inserted the words “ its successor council or ”.
- (5) In section 13 (referral to Department where consent refused or granted subject to conditions)—
  - (a) in subsection (1)—
    - (i) in paragraph (a), after the words “consent of” there shall be inserted the words “ a successor council or ”;
    - (ii) in paragraph (b), after the words “refused by” there shall be inserted the words “ the successor council or ”;
  - (b) in subsection (2), after the words “decision of” there shall be inserted the words “ the successor council or ”;
  - (c) in subsection (3), omit the words “of a statutory transition committee”;
  - (d) in subsection (4)(a), after the words “made by the” there shall be inserted the words “ successor council or ”.

VALID FROM 01/04/2015

*Payments for special purposes etc.*

**Payments for special purposes and public appeals**

**117** In the Local Government Finance Act (Northern Ireland) 2011 the following provisions cease to have effect—

- (a) section 37 (payments for special purposes);
  - (b) section 38 (restrictions on power to make payments under section 37);
- and

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- (c) section 40 (limit on expenditure on payments under section 37 and on public appeals).

VALID FROM 02/06/2014

*Persons ceasing to hold office and unqualified person*

**Persons ceasing to hold office**

**118.**—(1) A person who ceases to hold any office under this Act is, unless the person is not qualified or is disqualified, eligible to hold that office again.

(2) In subsection (1) “office” includes a position of responsibility.

(3) Subsection (1) does not apply if the person is not qualified or is disqualified to be elected or to be a councillor.

**Validity of acts done by unqualified person**

**119.**—(1) The validity of anything done by the holder of an office under this Act is not affected by that person not being qualified or being disqualified to be elected or to be a councillor.

(2) In subsection (1) “office” includes a position of responsibility.

VALID FROM 02/06/2014

*Power to dissolve Local Government Staff Commission*

**Power to dissolve the Local Government Staff Commission for Northern Ireland**

**120** In section 40 of the Local Government Act (Northern Ireland) 1972 (Staff Commission), after subsection (8) there shall be added the following subsection—

“(9) The Department may by order make provision for, and in connection with, the dissolution of the Staff Commission and such an order may—

- (a) provide for the transfer of the functions, assets and liabilities of the Staff Commission to any other body or person; and
- (b) contain such incidental, consequential, transitional or supplementary provisions (including the modification or repeal

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of any statutory provision (including a provision of this Act)) as appear to the Department to be necessary or expedient.

(10) An order must not be made under subsection (9) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.”.

VALID FROM 02/06/2014

### *Insurance*

#### **Insurance against accidents to councillors**

**121.**—(1) A council may insure against risks of a councillor meeting with a personal accident, whether fatal or not, while the councillor is engaged on the business of the council.

(2) Any sum received by the council under any such insurance must, after deduction of any expenses incurred in its recovery, be paid by the council to, or to the personal representatives of, the councillor in respect of an accident to whom that sum is received.

(3) The provisions of the Life Assurance Act 1774 as extended by the Life Insurance (Ireland) Act 1866 does not apply to any insurance under this section.

(4) In this section—

“council” includes a joint committee;

“councillor” includes a member of a committee or sub-committee of a council or a joint committee, whether the member is a member of the council or not;

“insurance” means a contract with any person whereby, in consideration of payments by the council by way of premium or otherwise, that person undertakes to pay to the council such sums as may be provided in the contract on the occurrence of a particular event.

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VALID FROM 02/06/2014

### *Transfer schemes*

#### **Schemes for transfers of assets and liabilities**

**122.—**(1) The power conferred by subsection (4) is exercisable where it appears to any Northern Ireland department necessary or expedient as mentioned in section 124(1) or (2).

(2) Any Northern Ireland department may make one or more schemes for the transfer of designated assets or liabilities of that department or a local government body to a local government body.

(3) The power conferred by subsection (6) is exercisable by the Department for Social Development if it appears to that department necessary or expedient as mentioned in section 124(2).

(4) The Department for Social Development may make one or more schemes for the transfer of designated assets or liabilities of the Northern Ireland Housing Executive to a local government body.

(5) The Department of Culture, Arts and Leisure may make one or more schemes for the transfer of designated assets or liabilities of the Board of Trustees of the National Museums and Galleries of Northern Ireland relating to Armagh County Museum to the council for the district of Armagh, Banbridge and Craigavon.

(6) On the transfer date the designated assets or liabilities are transferred and vest in accordance with the scheme.

(7) Schedule 8 has effect.

(8) In this section “designated”, in relation to a scheme, means specified in or determined in accordance with the scheme.

(9) In this section and Schedule 8—

“scheme” means a scheme under this section;

“the transfer date”, in relation to a scheme, means the date specified by the scheme as the date on which it is to have effect.

(10) In this section and Schedule 8 “local government body”—

(a) in relation to a transfer from a local government body does not include a successor council; and

(b) in relation to a transfer to a local government body does not include an existing council.



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### **Compensation for loss of office or diminution of emoluments**

**123.**—(1) This section applies to any person who at any time after the date on which this Act receives Royal Assent—

- (a) is employed by a local government body; and
- (b) suffers loss.

(2) In this section—

“local government body” includes the Local Government Staff Commission and a council whenever established;

“loss” means loss of employment or loss or diminution of emoluments which is attributable to any provision made by or under—

- (a) this or any other Act mentioned in subsection (1) of section 124;
- (b) any transfer of functions or any statutory provision falling within paragraph (a) or (b) of subsection (2) of that section.

(3) Compensation in respect of loss suffered by a person to whom this section applies is, subject to subsection (5), to be paid only in accordance with regulations made for the purposes of this section under Article 19 of the Superannuation (Northern Ireland) Order 1972; and accordingly no local government body is to pay any such compensation under any other statutory provision, by virtue of any provision in a contract or otherwise.

(4) Subsection (3) does not preclude the payment of compensation if it forms part of a severance arrangement which has been sanctioned by the Department. The Department must satisfy itself that the arrangement is reasonable.

(5) Subsection (3) does not preclude the making of any payment to which a person is entitled by virtue of contractual rights acquired by the person before 12th June 2012.

(6) Regulations under Article 19 of the Superannuation (Northern Ireland) Order 1972 must not provide compensation for a person to whom this section applies in respect of any loss so far as attributable to the termination on or before 1st April 2015 of a contract made after 12th June 2012 which provides for the employment of that person for a fixed term extending beyond the abolition date.

(7) For the purpose of determining under Article 173 or 176 of the Employment Rights (Northern Ireland) Order 1996—

- (a) whether the provisions of a new contract offered to a person employed by a local government body differ from the corresponding provisions of the previous contract; and
- (b) whether employment under the new contract is suitable in relation to that person,

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there is to be treated as forming part of the remuneration payable under the new contract any compensation to which that person is or, if the person accepted the offer, would be entitled in accordance with this section.

(8) Except as provided in subsection (7), nothing in this section is to be construed as affecting any entitlement to a redundancy payment under Part 12 of the Employment Rights (Northern Ireland) Order 1996 or to any payment by virtue of any provision of the Superannuation (Northern Ireland) 1972 other than Article 19 of that Order.

VALID FROM 20/05/2014

*Provisions for the purposes of this Act and other purposes*

**Supplementary and transitional provisions for the purposes of this Act and other purposes**

**124.**—(1) The Department may by regulations make such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or expedient for the purposes of, or otherwise in connection with—

- (a) this Act;
- (b) the Local Government (Boundaries) Act (Northern Ireland) 2008; or
- (c) the Planning Act (Northern Ireland) 2011.

(2) Any Northern Ireland department may by regulations make such incidental, consequential, transitional or supplemental provision as appears to that department to be necessary or expedient for the purposes of, or otherwise in connection with—

- (a) any transfer of functions to a local government body, whether they are functions of that department or not, coming into operation on or before 1st April 2015; or
- (b) any statutory provision coming into operation on or before 1st April 2015 which confers functions on a local government body, whether this is expressed as transfer of functions or not.

(3) In this section “local government body” includes the Northern Ireland Housing Executive.

(4) Nothing in this section is to be taken as limiting the generality of any other statutory provision (including a provision of this Act) and nothing in any other statutory provision (including a provision of this Act) is to be taken as limiting the generality of this section.

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(5) Regulations under this section which amend any statutory provision must not be made unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.

VALID FROM 02/06/2014

### *Council websites*

#### **Council websites**

**125** The Department must by regulations specify a standard format for the domain names of council websites.

### *Supplementary*

VALID FROM 02/06/2014

#### **Interpretation**

**126.**—(1) In this Act—

“association” includes any body of persons, corporate or unincorporate;

“council” means a district council;

“councillor” means a member of a council;

“declaration” means declaration in writing;

“direction” means direction in writing;

“district” has the same meaning as in the Local Government Act (Northern Ireland) 1972;

“the Department” means the Department of the Environment;

“elected” includes appointed, nominated or otherwise selected or returned;

“external representative”, in relation to a council, has the meaning given by section 10(4);

“government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“joint committee” means a joint committee appointed under section 11(1);

“local elector” has the same meaning as in the Electoral Law Act (Northern Ireland) 1962;

“local government body” means a local government body within the meaning of Part 2 of the Local Government (Northern Ireland) Order 2005;

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“notice” means notice in writing;

“owner” means the person for the time being receiving the rack rent of the land in connection with which the word is used, whether on that person's own account or as agent or trustee for any other person, or who would so receive it if the land were let at a rack rent;

“prescribed” means prescribed by regulations;

“public body” means a body (other than a council) established by or under any statutory provision;

“qualified majority” has the meaning given by section 40;

“regulations”, except in sections 100, 124 and 127 means regulations made by the Department;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(2) In this Act—

(a) references to a district, council, chair or deputy chair include references to, respectively, a borough, borough council, mayor or deputy mayor;

(b) references to a councillor, except in relation to the nomination or election of councillors, include references to an alderman, and

(c) references to, or any references which are to be construed as references to, a borough, borough council, mayor or deputy mayor include references to, respectively, a city, city council, lord mayor or deputy lord mayor.

(3) References in this Act to the consent or approval of any authority are references to consent or approval in writing.

(4) For the purposes of this Act references to “publish” and “publication” are references to any communication, in whatever form, addressed to the public at large or to a section of the public.

VALID FROM 20/05/2014

### **Regulations and orders**

**127.—**(1) Before a Northern Ireland department makes regulations or orders to which this subsection applies it must consult councils and—

(a) such associations or bodies representative of councils;

(b) such associations or bodies representative of officers of councils; and

(c) such other persons or bodies,

as appear to it to be appropriate.

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(2) Subsection (1) applies to any regulations and orders under this Act except regulations and orders under—

- (a) section 1(2);
- (b) section 30;
- (c) section 76;
- (d) section 100; or
- (e) section 129.

(3) Regulations and orders to which this subsection applies must not be made unless a draft of the regulations or order has been laid before, and approved by a resolution of, the Assembly.

(4) Subsection (3) applies to regulations and orders which include provisions under—

- (a) section 20;
- (b) section 21;
- (c) section 38;
- (d) section 40;
- (e) section 41;
- (f) section 48;
- (g) section 51;
- (h) section 76;
- (i) section 82;
- (j) section 86;
- (k) section 101;
- (l) section 109;
- (m) in Part 2 of Schedule 1, paragraph 11(3);
- (n) paragraph 5 of Schedule 2.

(5) Except where otherwise provided, any other regulations under this Act and any other orders under this Act other than orders under sections 67, 106 and 129 are subject to negative resolution.

(6) Regulations and orders under this Act may contain such incidental, supplementary, consequential, transitional, transitory or saving provisions as the Northern Ireland department making them thinks necessary or expedient.

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### **Minor and consequential amendments and repeals**

**128.**—(1) Schedule 9 (which contains minor and consequential amendments) has effect.

(2) The statutory provisions mentioned in the first column of Schedule 10 are repealed to the extent specified in the second column of that Schedule.

### **Commencement**

**129.**—(1) Subject to subsection (2), this Act comes into operation on such day or days as the Department may by order appoint.

(2) The following provisions come into operation on the day after the day on which this Act receives Royal Assent—

- (a) this section;
- (b) section 130.

### **Short title**

**130** This Act may be cited as the Local Government Act (Northern Ireland) 2014.

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