

LOCAL GOVERNMENT ACT 2000

EXPLANATORY NOTES

INTRODUCTION

Part I: Promotion of Economic, Social Or Environmental Well-Being

Commentary on sections

Sections 2 and 3: Promotion of well-being

14. *Section 2* provides local authorities with a power to take any steps which they consider are likely to promote or improve the economic, social or environmental well-being of their local community, subject to the restrictions contained in *section 3*.
15. Together, these sections allow local authorities to undertake a wide range of activities for the benefit of their local area and to improve the quality of life of local residents, businesses and those who commute to or visit the area. This is intended to clear up much of the uncertainty which currently exists about what authorities can do. Sections 2 and 3 allow authorities to take any action, unless it is subject to statutory prohibitions, restrictions or limitations specifically set out in legislation. The intention is to broaden the scope for local authority action while reducing the scope for challenge on the grounds that local authorities lack specific powers.
16. Amongst other things, *section 2(3)* means local authorities must consider the objectives and priorities contained in their community strategy before they take action under the power in *section 2(1)*. This is in no way meant to limit the scope of the power in section 2(1). Rather it is designed to encourage authorities to think about the broad goals and objectives contained in the community strategy, before deciding how best to use their well-being power.
17. Additionally, *section 2(4)* makes clear that the power in section 2(1) enables authorities to work in partnership with other bodies. For example, it allows authorities to assist other statutory bodies to discharge their functions, or to exercise those functions on their behalf. This is intended to help local authorities and other statutory service providers to work together to provide services in ways which meet the needs of communities.
18. *Section 3* prevents local authorities from using the power in section 2 to raise money. It also allows the Secretary of State, in relation to England, and the National Assembly for Wales (NAW), in relation to Wales, to prevent authorities from using the power to do anything which they specify by order that authorities should not do. This section also permits the Secretary of State and the NAW to issue guidance to authorities on the exercise of the power. Before issuing any guidance, the Secretary of State and the NAW would have to consult local government and others.

Section 4: Strategies for promoting well-being

19. *Section 4* requires authorities to work together with other bodies to establish a strategy for promoting the well-being of their local communities. Such strategies are intended

to allow authorities, and other bodies who provide local services, to establish common priorities and determine the steps which they would take to address them.

20. This section also allows the Secretary of State and the NAW, following consultation with local government and others, to issue guidance on the exercise of the power.

Sections 5 to 7 and section 9: Powers to modify enactments

21. **Section 2** provides authorities with a broad power to act. Local authorities will be able to use the power except where there are specific prohibitions, restrictions or limitations in other legislation. There may, however, be statutory prohibitions, restrictions or limitations specifically set out in legislation which will be found to limit the use of the well-being power. **Section 5** allows the Secretary of State, by order, to amend, repeal, revoke or disapply any enactment which obstructs authorities from taking steps to promote the well-being of their communities. This power could be exercised in relation to particular local authorities.
22. **Section 6** allows the Secretary of State to amend, repeal, revoke or disapply any enactment which requires local authorities to prepare a plan or strategy. This power could also be exercised in relation to particular local authorities. This is a deregulatory power; it might, for example, be used to remove requirements for statutory plans which no longer served a useful purpose, or to amend the requirements on specific authorities so that they could work more efficiently with their local partners to plan how they would meet common priorities.
23. **Section 7** allows the NAW to exercise the powers in section 6 in relation to the plans specified in **section 7(2)**. The list of plans in that subsection is not yet comprehensive because not all the statutory plans where the NAW has a relevant role have yet been identified. **Subsection (2)(d)** therefore provides the Secretary of State with the powers to add further plans to the list, by order.
24. **Section 9** sets out the procedure to be followed by the Secretary of State in making orders under sections 5 or 6. It provides for detailed scrutiny of any such orders. Before laying any orders, the Secretary of State is required to consult local government and others (including, where the proposals would affect Welsh local authorities, the NAW). He must make available to Parliament the results of that consultation, together with a full explanation of the purpose of the order.

Section 8: Modification of section 137 of the Local Government Act 1972

25. **Section 8** modifies the general power contained in section 137 of the 1972 Act, as a consequence of the introduction of the new power contained in section 2 of this Act. It removes most of the powers contained in section 137 from the authorities to whom section 2 applies (as set out in **section 1**). It retains, for all authorities, the powers in section 137(3) of the 1972 Act, which permit authorities to make contributions to certain charitable funds.