



# Localism Act 2011

## 2011 CHAPTER 20

### PART 1

#### LOCAL GOVERNMENT

### CHAPTER 1

#### GENERAL POWERS OF AUTHORITIES

#### **6 Limits on power under section 5(1)**

- (1) The Secretary of State may not make provision under section 5(1) unless the Secretary of State considers that the conditions in subsection (2), where relevant, are satisfied in relation to that provision.
- (2) Those conditions are that—
  - (a) the effect of the provision is proportionate to the policy objective intended to be secured by the provision;
  - (b) the provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it;
  - (c) the provision does not remove any necessary protection;
  - (d) the provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise;
  - (e) the provision is not of constitutional significance.
- (3) An order under section 5(1) may not make provision for the delegation or transfer of any function of legislating.
- (4) For the purposes of subsection (3) a “function of legislating” is a function of legislating by order, rules, regulations or other subordinate instrument.
- (5) An order under section 5(1) may not make provision to abolish or vary any tax.