

2012 No. 57 (C. 2)

**COMMUNITY INFRASTRUCTURE LEVY, ENGLAND
AND WALES**

INFRASTRUCTURE PLANNING

HOUSING, ENGLAND AND WALES

LOCAL GOVERNMENT, ENGLAND AND WALES

**TOWN AND COUNTRY PLANNING, ENGLAND AND
WALES**

**The Localism Act 2011 (Commencement No. 2 and Transitional
and Saving Provision) Order 2012**

Made - - - -

11th January 2012

The Secretary of State, in exercise of the powers conferred by sections 37, 240(2), (7) and (8) of the Localism Act 2011(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Localism Act 2011 (Commencement No. 2 and Transitional and Saving Provision) Order 2012.

(2) In this Order—

“the Act” means the Localism Act 2011;

“the 1990 Act” means the Town and Country Planning Act 1990(b);

“the 1996 Act” means the Housing Act 1996(c);

“the 2000 Act” means the Local Government Act 2000(d);

“the 2008 Act” means the Planning Act 2008(e).

(a) 2011 c. 20.
(b) 1990 c. 8.
(c) 1996 c. 52.
(d) 2000 c. 22.
(e) 2008 c. 29.

Provisions coming into force on 15th January 2012 in relation to England, Wales and to the extent specified in section 239 of the Act, Scotland

2. The following provisions of the Act come into force in relation to England, Wales and, to the extent specified in section 239 of the Act, to Scotland, on 15th January 2012—

- (a) section 128(2) and Schedule 13 so far as the amendments made to the 2008 Act, by paragraphs 3, 10 and 42, confer power on the Secretary of State to make regulations or rules;
- (b) section 129 so far as it confers power on the Secretary of State to give directions;
- (c) section 138(5) so far as the amendments made to the 2008 Act confer power on the Secretary of State to make regulations; and
- (d) section 142(3) so far as the amendments made to the 2008 Act confer power on the Secretary of State to make regulations.

Provisions coming into force on 15th January 2012 in relation to England

3. The following provisions of the Act come into force in relation to England on 15th January 2012—

- (a) section 68;
- (b) section 69(1) to (7) so far as necessary to enable a billing authority to make decisions and determinations under section 47 of the Local Government Finance Act 1988(a) (as amended by sections 69(1) to (7)) prior to 1st April 2012 but which apply to chargeable days on or after 1st April 2012; and
- (c) Part 9 of Schedule 25 and section 237 so far as relating to that Part.

Provisions coming into force on 15th January 2012 in relation to England and Wales

4.—(1) Subject to articles 6, 7, 9, 10 and 11, the following provisions of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 15th January 2012—

- (a) Chapter 4 of Part 1;
- (b) section 21 and Schedule 2 so far as they insert the following provisions into the 2000 Act—
 - (i) Chapter 4 of Part 1A;
 - (ii) sections 9B and 9C, and so far as they—
 - (aa) enable a local authority to change to a permitted form of governance, including executive arrangements, under Chapter 4 of Part 1A of the 2000 Act; and
 - (bb) enable any person to take any step under or for the purposes of regulations made under sections 9MC or 9MG of the 2000 Act;
 - (iii) section 9R and so far as required for the interpretation of sections 9B, 9C and Chapter 4 of Part 1A of the 2000 Act and regulations and orders made under Part 1A of the 2000 Act;
- (c) section 22 and Schedule 3 so far as they relate to the following paragraphs of Schedule 3—
 - (i) paragraphs 10 and 11, so far as they—
 - (aa) enable a local authority to change to a permitted form of governance, including executive arrangements, under Chapter 4 of Part 1A of the 2000 Act; and

(a) 1988 c. 41.

- (bb) enable any person to take any step under or for the purposes of regulations made under sections 9MC or 9MG of the 2000 Act;
- (ii) paragraphs 30 to 32;
- (iii) paragraphs 35 to 38
- (iv) paragraphs 40 to 53; and
- (v) paragraphs 66 and 67;
- (d) section 24;
- (e) section 36 so far as it omits paragraph (f) from section 27(6) of the Act;
- (f) section 70;
- (g) section 115;
- (h) sections 116 and 121 and Schedules 10, 11 and 12 so far as the amendments made to the 1990 Act confer power on the Secretary of State to prescribe matters by, or make provision in, a development order; and paragraph 22 of Schedule 12;
- (i) section 124(2), so far as the amendments made to the 1990 Act confer power on the Secretary of State to prescribe matters by, or make provision in, a development order;
- (j) section 145, so far as it enables local housing authorities to draft and consult on allocation schemes under section 166A of the Housing Act 1996^(a) (to be inserted by section 147 of the Act);
- (k) section 146 and section 147(2), (3), (4) and (5) so far as they confer power on the Secretary of State to make regulations and enable local housing authorities to draft and consult on allocation schemes under section 166A of the Housing Act 1996;
- (l) sections 147(1) and (6);
- (m) section 150, except subsection (3);
- (n) sections 151 and 152;
- (o) section 153, so far as it inserts subsection (7A)(a) and (c) into section 3 of the Homelessness Act 2002^(b);
- (p) section 154, so far as the amendments made to the Housing Act 1985^(c) confer power on the Secretary of State to make regulations;
- (q) section 158, so far as it confers power on the Secretary of State to make regulations;
- (r) section 165, so far as the amendments made to the Housing and Regeneration Act 2008^(d) confer power on the Secretary of State to make regulations;
- (s) section 176;
- (t) section 178, so far as it brings into force the following provisions of Schedule 16—
 - (i) paragraph 1;
 - (ii) paragraph 26 so far as it inserts sections 92B(1), 92C, 92D, 92E, 92F, 92G, 92H and 92I into the Housing and Regeneration Act 2008; and
 - (iii) paragraphs 53(6) and 54;
- (u) section 186, so far as it relates to the provisions of section 187 referred to in subparagraph (v) and (w);
- (v) section 187(1) and (2);
- (w) section 187(3) and (4), so far as they insert the following provisions into the Greater London Authority Act 1999^(e)—

(a) 1996 c. 52.

(b) 2002 c. 7.

(c) 1985 c. 68.

(d) 2008 c. 17.

(e) 1999 c. 29. Part 7A was inserted by the Greater London Authority Act 2007 (c. 24), section 28(1) and (4).

- (i) sections 333ZA to 333ZD including the italic heading immediately preceding section 333ZA; and
- (ii) section 333E so far as required for the interpretation of sections 333ZA to 333ZD;
- (x) section 190;
- (y) section 191(2) to (5);
- (z) sections 193 and 194;
- (aa) section 195, so far as it brings into force paragraph 3 of Schedule 19;
- (bb) section 197(3)(e), (f) and (5);
- (cc) sections 223 and 224;
- (dd) section 230; and
- (ee) the following parts of Schedule 25 and section 237 so far as relating to those Parts—
 - (i) Part 4 so far as they relate to the repeal of—
 - (aa) the words “or of any of sections 33A to 33O” in sections 34(3), 35(3) and 36(3) in the 2000 Act;
 - (bb) the words “or 33K” in section 45(9) of the 2000 Act;
 - (cc) the words “in Wales” in section 33ZA of the 2000 Act;
 - (dd) sections 33A to 33C and 33E to 33O including italic headings immediately preceding section 33J and section 33O of the 2000 Act;
 - (ee) the words “(including changes of the kinds set out in sections 33A to 33D)” and subsection (6)(b) of section 47 of the 2000 Act; and
 - (ff) sections 33(4), (6) and (7), 34(5) and (6), 38(4), (6) and (7), 40(4), (6) and (7), 62(4), (8)(c) and (9), 64, 65(4) to (6), and 69(3) of the Local Government and Public Involvement in Health Act 2007(a);
 - (ii) Part 9;
 - (iii) Parts 11 to 13;
 - (iv) Part 25.

Provisions coming into force on 31st January 2012 in relation to England and Wales

5.—(1) Subject to articles 6 and 8, the following provisions of the Act come into force in relation to England and Wales on 31st January 2012—

- (a) the provisions of Schedule 4 specified in paragraph (2) and section 26 so far as relating to those provisions;
 - (b) section 30 so far as it confers power on the Secretary of State to make regulations;
 - (c) section 237 and Part 5 of Schedule 25 so far as they relate to repeals effected by provisions specified in paragraph (2) of this article.
- (2) The provisions of Schedule 4 referred to in paragraph (1) are—
- (a) paragraphs 5 and 6;
 - (b) paragraph 10(3)(a);
 - (c) paragraph 12(3) so far as it repeals section 53(7) and (9) of the 2000 Act;
 - (d) paragraph 13(4);
 - (e) paragraph 17 so far as it repeals section 57(3) to (5) of the 2000 Act;
 - (f) paragraph 18 so far as it repeals section 57A(2)(b) of the 2000 Act (apart from the word “or” at the end of that paragraph) and section 57A(5) and (6) of that Act;

(a) 2007 c. 28.

- (g) paragraph 19 so far as it repeals the words “or (b)” in section 57B(4)(b) of the 2000 Act and so far as it repeals section 57B(6) of that Act;
- (h) paragraph 20 so far as it repeals section 57C(6) of the 2000 Act;
- (i) paragraphs 21 to 30;
- (j) paragraphs 33 and 34;
- (k) paragraph 35 so far as it repeals section 67(1) and (1A) of the 2000 Act and the words “the Standards Board for England or” in section 67(2) and (2A) of that Act;
- (l) paragraph 43(6);
- (m) paragraph 45 so far as it repeals section 78B(1)(a) of the 2000 Act;
- (n) paragraph 47 so far as it repeals section 80(3) of the 2000 Act so far as it requires a relevant authority in England to prepare a report, section 80(5) of the 2000 Act in relation to relevant authorities in England, and 80(6)(a) of the 2000 Act;
- (o) paragraph 48(3)(a);
- (p) paragraph 53 so far as it repeals the following provisions in Schedule 4 to the 2000 Act—
 - (i) paragraph 2(1)(b) to (e),
 - (ii) paragraph 3, and
 - (iii) paragraph 4.

Transitional and saving provision

6. The following transitional and saving provisions have effect.

7.—(1) Where, before 15th January 2012, a local authority in England held a referendum to approve a change in governance arrangements under Part 2 of the 2000 Act, that referendum is to be treated as “Referendum A” for the purposes of section 9MF(1) of the 2000 Act.

(2) Where, before 15th January 2012, the implementation of the existing form of governance or existing form of executive of a local authority in England was approved in a referendum held under Part 2 of the 2000 Act, that referendum is to be treated as having been held under Chapter 4 of Part 1A of the 2000 Act for the purposes of section 9M(2)(b) of the 2000 Act;

(3) Regulations made under section 34 or 45 of the 2000 Act continue to have effect until such time as regulations made under section 9MC or 9MG of the 2000 Act come into force, notwithstanding the commencement of the amendments effecting the repeal of sections 34 or 45 so far as they apply in England in article 4.

(4) Anything done under or for the purposes of regulations made under section 34 or 45 of the 2000 Act, which could have been done under or for the purposes of regulations made under sections 9MC or 9MG of that Act, is to be treated as if done under or for the purposes of the corresponding provision of the regulations made under sections 9MC or 9MG.

(5) Where, before 15th January 2012, a district council passed a resolution under section 37 or 39 of the Local Government and Public Involvement in Health Act 2007, that resolution is to be disregarded for the purposes of section 31A(a) of that Act.

8.—(1) Regulations made under section 66 of the 2000 Act continue to have effect notwithstanding the commencement of the repeal of any provision in Part 3 of that Act by article 5 of this Order.

(2) From the commencement of the repeal of section 57(3) of the 2000 Act but subject to compliance with any obligations imposed by any order made under paragraph 57 of Schedule 4 to the Act or any direction given under paragraph 58 of that Schedule, the functions of the Standards Board for England are—

(a) Section 31A was inserted by section 24 of the Act.

- (a) as regards any allegation or case that relates to a person who is a member or co-opted member of a relevant authority and that is being investigated by an ethical standards officer immediately before the commencement of the repeal, to refer the allegation or case to a relevant authority of which the person is a member or co-opted member;
 - (b) as regards any allegation or case that relates to a person who is no longer a member or co-opted member of any relevant authority and that is being investigated by an ethical standards officer immediately before the commencement of the repeal, to refer the allegation or case to a relevant authority of which the person has been a member or co-opted member;
 - (c) to ensure that, where the Standards Board for England is a party to proceedings in the First-tier Tribunal on a referral under section 64(3)(b) or 65(4) of the 2000 Act or to legal proceedings associated with proceedings on such a referral, the Board is represented in the proceedings;
 - (d) to wind up the affairs of the Standards Board for England;
 - (e) to transfer to such other persons as are appropriate, or, where appropriate, to destroy or make inaccessible, information held by the Standards Board for England;
 - (f) to undertake such tasks as the Standards Board for England considers are reasonably incidental to, or conducive to the performance of, the functions listed in this paragraph.
- (3) If an ethical standards officer is, immediately before the commencement of the repeal of section 57(5)(a) of the 2000 Act, a party to—
- (a) proceedings before the First-tier Tribunal on a referral under section 64(3)(b) or 65(4) of the 2000 Act, or
 - (b) legal proceedings associated with proceedings on such a referral,
- the Standards Board for England is, as from the commencement of the repeal, substituted for the ethical standards officer as a party to the proceedings; and anything done by or in relation to the ethical standards officer in connection with the proceedings is to be treated as having been done by or in relation to the Standards Board for England.
- (4) A person who is an ethical standards officer immediately before the commencement of the repeal of section 57(5)(a) of the 2000 Act does not, as a result of the commencement of that repeal, cease to be an employee of the Standards Board for England.
- (5) Where the Standards Board for England refers an allegation or case to a relevant authority under paragraph (2), that authority is to refer the allegation or case to its standards committee, and sections 57A(2) and (4), 57B, 57C, 66 and 66A of the 2000 Act apply in relation to the allegation or case as they apply to an allegation under section 57A(1) of the 2000 Act.
- (6) Notwithstanding the commencement of the repeal of section 58 of the 2000 Act, section 57C(5) of that Act is to be read as if the reference to a decision under section 57A(2) of that Act as applied by section 58(3) of that Act were a reference to a decision under section 57A(2) of that Act as applied by section 58(3) of that Act in relation to an allegation referred back under section 58(1)(c) of that Act before the commencement of the repeal.
- (7) Notwithstanding the commencement of the repeals of sections 60 and 64 of the 2000 Act, the references in sections 66(1) and (6) and 82A(1) of that Act to matters referred under section 60(2) or (3) or 64(2) or (4) of that Act continue to have effect but only as references to matters so referred before the commencement of the repeals.
- (8) Notwithstanding the commencement of the repeals of sections 62, 63 and 67(1) and (1A) of the 2000 Act, those provisions continue to have effect for the purposes of section 66(3A) of that Act.
- (9) Notwithstanding the commencement of the repeal of section 65 of the 2000 Act, section 65(3) of that Act continues to have effect for the purposes of the application of section 78(1)(a) of that Act in relation to interim reports produced before the commencement of the repeal.
- (10) The commencement of the repeal of paragraph 4 of Schedule 4 to the 2000 Act does not prejudice appointments made under that paragraph before the commencement of the repeal.

(11) In this article, “standards committee”, “relevant authority” “member” and “co-opted member” have the same meaning as in Part 3 of the 2000 Act.

9. Where, before 15th January 2012, the Secretary of State has made an order containing provision under section 43(4B)(a)(iii) of the Local Government Finance Act 1988 which requires a ratepayer to make an application for relief by a prescribed date, or under section 43(4C) of that Act prescribing the form and content of the application, and that order is still in force on 14th January 2012, such provision has effect from 15th January 2012 as if it were a condition prescribed by the Secretary of State under section 43(4B)(a)(ii) of the Local Government Finance Act 1988.

10. Where, before 15th January 2012, the person appointed to carry out the independent examination of a development plan document under section 20 of the Planning and Compulsory Purchase Act 2004(a) recommends modifications to such a document those modifications are to be treated as the main modifications for the purposes of section 23(3) of that Act.

11. Before section 147(4) of the Act comes fully into effect, the references in sections 151(3)(a) and 153 of that Act to section 166A of the Housing Act 1996(b) (“the 1996 Act”) are to be read as references to section 167 of the 1996 Act.

Signed by authority of the Secretary of State for Communities and Local Government

Andrew Stunell

Parliamentary Under Secretary of State

Department for Communities and Local Government

11th January 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 15th January 2012 various provisions of the Localism Act 2011 (c. 20) (so far as not already in force) in relation to England and Wales.

The provisions are: Chapter 4 of Part 1 (transfer and delegation of functions to certain authorities), sections 21, 22, and Schedules 2 and 3 (governance of English local authorities)(partially), section 24 (timetables for changing English district councils’ electoral schemes), section 36 (amendment of section 27 following abolition of the Metropolitan Police Authority)(partially), section 68 (business rates supplement)(England only), section 69(1) to (7) (non-domestic rates; discretionary relief)(partially)(England only), section 70 (small business relief)(partially), section 71 (cancellation of liability to backdated rates), section 115 (use of community infrastructure levy), sections 116 and 121 and Schedules 10, 11 and 12 (neighbourhood planning)(partially), section 124(2) (enforcement)(partially), section 145 (allocation of social housing)(partially), 146 and 147(2) to (5) (allocation of social housing)(partially), 147(1) and (6) (allocation of social housing), section 150 (social housing tenure: tenancy strategies)(except subsection(3)), sections 151 and 152 (social housing: tenancy strategies), section 153 (social housing: tenancy strategies)(partially), section 154 (flexible tenancies) (partially), section 158(transfer of tenancies)(partially), section 165 (assured short-hold tenancies: rights to acquire)(partially), section 176 (housing mobility), section 186 (removal of limitations on Greater London Authority’s general power)(partially), section 187 (new housing and regeneration functions for GLA)(partially), section 190 (transfer of property of Homes and Communities Agency), section 191(2) to (5) (abolition of London Development Agency and transfer of its property etc), sections 193 and 194 (transfer schemes: general provisions); section 195 (consequential amendments)(partially), section 197(3)(e) and (f) and (5) (designation of Mayoral development areas); section 223 (delegation to the Mayor of London of Ministers’ functions), section 224 (which enables the Secretary of State to make an order requiring the Greater London Authority to carry out specified activities through a taxable

(a) 2004 c. 5. Section 23 (3) was amended by section 112(3) of the Act.

(b) 1996 c. 52.

body such as a limited company), and section 230 (which permits the Greater London Authority to share administrative services with certain bodies and enables the Secretary of State to make orders adding to the list of such bodies), Schedule 16 and section 178 (transfer of functions from Office for Tenants and Social Landlords to HCA)(partially), Schedule 24 and section 233 (transfer and transfer schemes: tax provisions)(partially) and Schedule 25 and section 237 (repeals and revocations)(partially) (*articles 3 and 4*).

The Order brings into force on 15th January 2012 in relation to England, Wales and Scotland section 128 and Schedule 13 (abolition of Infrastructure Planning Commission)(partially), section 129 (transitional provision in connection with abolition - partially), section 138(5) (procedural changes relating to applications for development consent)(partially), section 142(3) (changes to notice requirements for compulsory acquisition)(partially) (*article 2*).

The Order brings into force on 31st January 2012 the provisions in Schedule 4 to the Act (conduct of local authority members) necessary to end the involvement of the Standards Board for England in the investigation of allegations of misconduct by members and co-opted members of relevant authorities in England. Transitional and savings provisions have the effect that any cases under investigation by the Standards Board on 31st January 2012 are sent back to be dealt with by the standards committee of the relevant authority of which the person under investigation is a member or co-opted member (*articles 5, 6 and 8*).

The Order also makes transitional provision in relation to local authority governance, so that where a local authority in England has previously held a referendum to change governance arrangements under Part 2 of the Local Government Act 2000, it may not hold a referendum under the new Part 1A for a period of ten years from the date of the earlier referendum. That referendum will also count for the purposes of section 9M(2)(b). Regulations made under sections 34 or 45 are saved until such time as Regulations made under section 9MC or 9MG come into force. Where a local authority, including its counting officer, or local elector has taken steps in relation to referendums or petitions for referendums under Regulations made under sections 34 or 45 of the 2000 Act, they may continue as if they had taken those steps under new Regulations made under sections 9MC and 9MG. Resolutions for local authority elections by thirds or by halves under the Local Government and Public Involvement in Health Act 2007 are to be disregarded for the moratorium period in section 31A of that Act, if they were passed prior to 15th January 2012. (*articles 6 and 7*).

This Order also makes transitional provision in relation to the operation of Small Business Rate Relief, in relation to development plan documents and in relation to references to the Housing Act 1996 (*articles 6, 9, 10 and 11*).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 8(2)	3rd December 2011	S.I. 2011/2896 (C. 103)
Section 15	3rd December 2011	S.I. 2011/2896 (C. 103)
Section 19	3rd December 2011	S.I. 2011/2896 (C. 103)
Section 20 (partially)	3rd December 2011	S.I. 2011/2896 (C. 103)
Section 21 (partially)	3rd December 2011	S.I. 2011/2896 (C. 103)
Section 22 (partially)	3rd December 2011	S.I. 2011/2896 (C. 103)
Section 69(8)	3rd December 2011	S.I. 2011/2896 (C. 103)

Sections 72 to 79	3rd December 2011	S.I. 2011/2896 (C. 103)
Schedule 2 (partially)	3rd December 2011	S.I. 2011/2896 (C. 103)
Schedule 3 (partially)	3rd December 2011	S.I. 2011/2896 (C. 103)
Schedules 5 to 7	3rd December 2011	S.I. 2011/2896 (C. 103)

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STATUTORY INSTRUMENTS

2012 No. 57 (C. 2)

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AND WALES**

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