

*Draft Order laid before Parliament under section 235(6) of the Localism Act 2011, for approval by resolution of each House of Parliament.*

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D R A F T   S T A T U T O R Y   I N S T R U M E N T S

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**2012 No.**

**LOCAL GOVERNMENT**

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

**The Localism Act 2011 (Consequential Amendments) Order  
2012**

*Made*   -   -   -   -

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*Coming into force in accordance with article 1(2)*

The Secretary of State makes the following Order in exercise of the powers conferred by section 236 of the Localism Act 2011(a).

A draft of this Order has been approved by a resolution of each House of Parliament in accordance with section 235(6) of that Act.

**Citation and commencement**

**1.**—(1) This Order may be cited as the Localism Act 2011 (Consequential Amendments) Order 2012.

(2) This Order comes in to force on the day after the day on which it is made with the exception of Article 3 and Schedule 2, which come into force on 6th April 2012.

**Amendments to enactments**

- 2.** The amendments specified in Schedule 1 to this Order shall have effect.
- 3.** The amendments specified in Schedule 2 to this Order shall have effect.
- 4.** The amendments specified in Schedule 3 to this Order shall have effect.

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

Date

*Name*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

## General powers of authorities: consequential amendments

### **Industrial and Provident Societies Act 1965 (c. 12)**

1. In section 6(1A) of the Industrial and Provident Societies Act 1965<sup>(a)</sup> (exception to maximum shareholding in society) after “Act 2000” insert “or the power in section 1 of the Localism Act 2011”.

### **Nationality, Immigration and Asylum Act 2002 (c. 41)**

2. The Nationality, Immigration and Asylum Act 2002 is amended as follows.

3. In section 55(4) (provisions under which an authority may not provide or arrange for the provision of support following late claim of asylum)—

(1) omit “and” at the end of paragraph (b), and

(2) at the end of paragraph (c) insert—

“, and

(d) section 1 of the Localism Act 2011 (local authority’s general power of competence)”.

4. In paragraph 1(1) of Schedule 3 (enactments under which a person to whom the paragraph applies shall not be eligible for support or assistance) <sup>(b)</sup> after paragraph (k) insert—

“(ka) section 1 of the Localism Act 2011 (local authority’s general power of competence),”.

### **Local Authorities (Goods and Services) (Public Bodies) (England) Order 2002**

5. In article 2(2) of the Local Authorities (Goods and Services) (Public Bodies) (England) Order 2002<sup>(c)</sup> (designation of certain bodies as public bodies) after “Act 2000” insert “or section 1 of the Localism Act 2011<sup>(d)</sup>”.

### **Health and Social Care (Community Health and Standards) Act 2003 (c. 43)**

6. In section 148 of the Health and Social Care (Community Health and Standards) Act 2003 (interpretation), in paragraph (c)(i) of the definition of “English local authority social service”<sup>(e)</sup> after “(c. 22)” insert “or section 1 of the Localism Act 2011”

### **Service Charges (Consultation Requirements) (England) Regulations 2003**

7. In regulation 3(1)(b)(ii) of the Service Charges (Consultation Requirements)(England) Regulations 2003<sup>(f)</sup> (management agreements between local authorities and certain bodies not to be qualifying long term agreements) after “Act 2000” insert “or section 1 of the Localism Act 2011<sup>(g)</sup>”.

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(a) Section 6(1A) was inserted by S.I. 2010/866.

(b) Paragraph 1(1) was amended by the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraph 229 and the Children and Young Persons Act 2008 (c. 23), section 22(6).

(c) S.I. 2002/522.

(d) 2011 c. 20.

(e) The definition of “English local authority social service” was amended by the Education and Inspections Act 2006 (c. 40), Schedule 14 paragraphs 82 and 93.

(f) S.I. 2003/1987, to which there are amendments not relevant to this Order.

(g) 2011 c. 20.

### **Education and Inspections Act 2006 (c. 40)**

8. In section 135(2) of the Education and Inspections Act 2006 (definition of “related activity” in relation to a function to which Chapter 4 of Part 8 of the Act applies) after “(promotion of economic or social well-being)” insert “or section 1 of the Localism Act 2011 (local authority’s general power of competence)”.

### **Health and Social Care Act 2008 (c. 14)**

9. In section 97(1) of the Health and Social Care Act 2008 (general interpretation of Part 1) in paragraph (b) of the definition of “adult social services” after “(c. 22)” insert “or section 1 of the Localism Act 2011”.

### **Local Government Pension Scheme (Administration) Regulations 2008**

10. In Schedule 2 to the Local Government Pension Scheme (Administration) Regulations 2008(a) (which sets out scheme employers) in paragraph 22 of Part 1 after “Act 2000” insert “or section 1 of the Localism Act 2011”.

## **SCHEDULE 2**

Article 3

### **Compensation for compulsory acquisition: consequential amendments**

#### **Amendment of the Land Compensation Act 1961 (c. 33)**

1.—(1) The Land Compensation Act 1961 is amended as follows.

(2) In section 29(1)(b) (interpretation of Part IV) in paragraph (d) of the definition of “additional development” for “sections 14 to 16” substitute “sections 14 and 15”.

(3) The amendment made by sub-paragraph (2) does not apply—

- (a) in the case of an acquisition authorised by a compulsory purchase order if the order was made or confirmed by a Minister, or confirmed by another authority, before 6th April 2012,
- (b) in the case of an acquisition authorised by any other order if the order, so far as it authorises the acquisition became effective before 6th April 2012, or
- (c) in the case of an authorisation authorised by a special enactment if the special enactment was enacted before 6th April 2012.

(4) In sub-paragraph (3)(a) “compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981(c).

(5) In sub-paragraph (3)(c) “special enactment” means—

- (a) a local or private Act which authorises the compulsory acquisition of land specifically identified in that Act, or
- (b) a provision which—
  - (i) is contained in an Act other than a local or private Act, and
  - (ii) authorises the compulsory acquisition of land specifically identified in that Act.

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(a) S.I. 2008/239, to which there are amendments not relevant to this Order

(b) Section 29 was repealed, with savings, by sections 86 and 101 of, and Schedule 17 to, the Land Commission Act 1967 (c. 1). It was revived, and reinserted, in relation to certain acquisitions, by section 66 of, and Schedule 14 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to section 29 but none are relevant to this Order.

(c) 1981 c. 67 (see section 7).

### **Amendment of the Local Government Act 1972 (c. 70)**

- 2.—(1) The Local Government Act 1972 is amended as follows.
- (2) In paragraph 55 of Schedule 16(a) (functions under, and amendment and modifications of, enactments relating to town and country planning)—
- (a) in sub-paragraph (1)(a)—
    - (i) for “class” substitute “description”, and
    - (ii) for “classes” substitute “descriptions”;
  - (b) in each of sub-paragraphs (4) and (5) for “class” substitute “description”; and
  - (c) in sub-paragraph (6) for “specifies” substitute “identifies”.
- (3) The amendment made by sub-paragraph (2) does not apply—
- (a) in the case of an acquisition authorised by a compulsory purchase order if the order was made or confirmed by a Minister, or confirmed by another authority, before 6th April 2012,
  - (b) in the case of an acquisition authorised by any other order, if the order so far as it authorises the acquisition became effective before 6th April 2012, or
  - (c) in the case of an authorisation authorised by a special enactment if the special enactment was enacted before 6th April 2012.
- (4) In sub-paragraph (3)(a) “compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981.
- (5) In sub-paragraph (3)(c) “special enactment” means—
- (a) a local or private Act which authorises the compulsory acquisition of land specifically identified in that Act, or
  - (b) a provision which –
    - (i) is contained in an Act other than a local or private Act, and
    - (ii) authorises the compulsory acquisition of land specifically identified in that Act.

### **Amendment of the Highways Act 1980 (c. 66)**

- 3.—(1) The Highways Act 1980 is amended as follows.
- (2) In section 262(4)(b) (assumptions to be made in assessing compensation on certain compulsory acquisitions of land for service stations etc and lorry areas for special roads) in the definition of “relevant planning permission” for “section 15 or 16” substitute “section 15”.
- (3) The amendment made by sub-paragraph (2) does not apply in a case where section 16 of the Land Compensation Act 1961 applies (or would apply if it were relevant to the case).

## **SCHEDULE 3**

Article 4

### **Neighbourhood planning: consequential amendments**

#### **Amendments to the Planning and Compulsory Purchase Act 2004 (c.5)**

- 1.—(1) The Planning and Compulsory Purchase Act 2004 is amended as follows.
- (2) In Schedule 8 (transitional provisions)—
- (a) in paragraph 1(5), after paragraph (c) insert—

“(d) a neighbourhood development plan.”; and

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(a) There are amendments to paragraph 55 of Schedule 16 but none are relevant to this Order.  
(b) There are amendments to section 262 but none are relevant to this Order.

(b) in paragraph 1(7), after paragraph (b) insert—

“(c) a neighbourhood development plan published under section 38B(5) of the principal Act.”.

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

Schedule 1 to this Order makes amendments consequential to the provisions of Chapter 1 of Part 1 of the Localism Act 2011. Section 1 of the Localism Act 2011 provides local authorities in England with a general power of competence (“the general power”). This will replace the power to promote well-being (section 2 of the Local Government Act 2000) (“the well-being power”) for those authorities. Section 2 of the Local Government Act 2000 is amended by Schedule 1 to the Localism Act 2011 so as to apply only to Welsh local authorities.

The Order amends various references in Acts and statutory instruments to the wellbeing power to refer to the general power of competence.

Schedule 2 to this Order makes amendments consequential to the provisions of section 232 of the Localism Act 2011, which amends Parts II and III of the Land Compensation Act 1961.

Section 232(2) amends the provisions relating to taking account of planning permission when assessing compensation by replacing sections 14, 15 and 16 of the Land Compensation Act 1961 with new sections 14 and 15. The amendments contained in paragraphs 1 and 3 of Schedule 2 amend the relevant Acts to reflect the absence of section 16.

Section 232(3) amends the provisions relating to certificates of appropriate alternative development by replacing sections 17 and 18 of the Land Compensation Act 1961 with new sections 17 and 18. The new provisions do not require the local planning authority to specify class or classes of development. The amendments contained in paragraph 2 of Schedule 2 amend the Local Government Act 1972 to reflect this.

Schedule 3 to this Order makes an amendment consequential to the provisions of Chapter 3 of Part 6 of the Localism Act 2011: neighbourhood planning in England. The Order amends Schedule 8 to the Planning and Compulsory Purchase Act 2004, which makes transitional provision in relation to old plans and policies. The amendments insert reference to neighbourhood development plans into the list of policies which are considered to be a new policy.

A full impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.

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DRAFT STATUTORY INSTRUMENTS

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