



Localism Act 2011

2011 CHAPTER 20

PART 1 **E+W**

LOCAL GOVERNMENT

CHAPTER 1 **E+W**

GENERAL POWERS OF AUTHORITIES

1 Local authority's general power of competence **E+W**

- (1) A local authority has power to do anything that individuals generally may do.
- (2) Subsection (1) applies to things that an individual may do even though they are in nature, extent or otherwise—
 - (a) unlike anything the authority may do apart from subsection (1), or
 - (b) unlike anything that other public bodies may do.
- (3) In this section “individual” means an individual with full capacity.
- (4) Where subsection (1) confers power on the authority to do something, it confers power (subject to sections 2 to 4) to do it in any way whatever, including—
 - (a) power to do it anywhere in the United Kingdom or elsewhere,
 - (b) power to do it for a commercial purpose or otherwise for a charge, or without charge, and
 - (c) power to do it for, or otherwise than for, the benefit of the authority, its area or persons resident or present in its area.
- (5) The generality of the power conferred by subsection (1) (“the general power”) is not limited by the existence of any other power of the authority which (to any extent) overlaps the general power.
- (6) Any such other power is not limited by the existence of the general power (but see section 5(2)).

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(7) Schedule 1 (consequential amendments) has effect.

Commencement Information

II S. 1(1)-(6) in force at 18.2.2012 by [S.I. 2012/411](#), [art. 2\(a\)](#)

2 Boundaries of the general power **E+W**

- (1) If exercise of a pre-commencement power of a local authority is subject to restrictions, those restrictions apply also to exercise of the general power so far as it is overlapped by the pre-commencement power.
- (2) The general power does not enable a local authority to do—
 - (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
 - (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (i) to the general power,
 - (ii) to all of the authority's powers, or
 - (iii) to all of the authority's powers but with exceptions that do not include the general power.
- (3) The general power does not confer power to—
 - (a) make or alter arrangements of a kind which may be made under Part 6 of the Local Government Act 1972 (arrangements for discharge of authority's functions by committees, joint committees, officers etc);
 - (b) make or alter arrangements of a kind which are made, or may be made, by or under Part 1A of the Local Government Act 2000 (arrangements for local authority governance in England);
 - (c) make or alter any contracting-out arrangements, or other arrangements within neither of paragraphs (a) and (b), that authorise a person to exercise a function of a local authority.
- (4) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision that—

 - (a) is contained in an Act passed after the end of the Session in which this Act is passed, or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 1;

“pre-commencement limitation” means a prohibition, restriction or other limitation expressly imposed by a statutory provision that—

 - (a) is contained in this Act, or in any other Act passed no later than the end of the Session in which this Act is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 1;

“pre-commencement power” means power conferred by a statutory provision that—

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- (a) is contained in this Act, or in any other Act passed no later than the end of the Session in which this Act is passed, or
- (b) is contained in an instrument made under an Act and comes into force before the commencement of section 1.

Commencement Information

I2 S. 2 in force at 18.2.2012 by [S.I. 2012/411](#), [art. 2\(b\)](#)

3 Limits on charging in exercise of general power **E+W**

- (1) Subsection (2) applies where—
 - (a) a local authority provides a service to a person otherwise than for a commercial purpose, and
 - (b) its providing the service to the person is done, or could be done, in exercise of the general power.
- (2) The general power confers power to charge the person for providing the service to the person only if—
 - (a) the service is not one that a statutory provision requires the authority to provide to the person,
 - (b) the person has agreed to its being provided, and
 - (c) ignoring this section and section 93 of the Local Government Act 2003, the authority does not have power to charge for providing the service.
- (3) The general power is subject to a duty to secure that, taking one financial year with another, the income from charges allowed by subsection (2) does not exceed the costs of provision.
- (4) The duty under subsection (3) applies separately in relation to each kind of service.

Commencement Information

I3 S. 3 in force at 18.2.2012 by [S.I. 2012/411](#), [art. 2\(b\)](#)

4 Limits on doing things for commercial purpose in exercise of general power **E+W**

- (1) The general power confers power on a local authority to do things for a commercial purpose only if they are things which the authority may, in exercise of the general power, do otherwise than for a commercial purpose.
- (2) Where, in exercise of the general power, a local authority does things for a commercial purpose, the authority must do them through a company.
- (3) A local authority may not, in exercise of the general power, do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.
- (4) In this section “company” means—

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- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
- (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

Commencement Information

I4 S. 4 in force at 18.2.2012 by [S.I. 2012/411](#), [art. 2\(b\)](#)

5 Powers to make supplemental provision E+W

- (1) If the Secretary of State thinks that a statutory provision (whenever passed or made) prevents or restricts local authorities from exercising the general power, the Secretary of State may by order amend, repeal, revoke or disapply that provision.
- (2) If the Secretary of State thinks that the general power is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the Secretary of State may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made).
- (3) The Secretary of State may by order make provision preventing local authorities from doing, in exercise of the general power, anything which is specified, or is of a description specified, in the order.
- (4) The Secretary of State may by order provide for the exercise of the general power by local authorities to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—
 - (a) all local authorities,
 - (b) particular local authorities, or
 - (c) particular descriptions of local authority.
- (6) The power under subsection (1) or (2) to amend or disapply a statutory provision includes power to amend or disapply a statutory provision for a particular period.
- (7) Before making an order under subsection (1), (2), (3) or (4) the Secretary of State must consult—
 - (a) such local authorities,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),
 as the Secretary of State considers appropriate.
- (8) Before making an order under subsection (1) that has effect in relation to Wales, the Secretary of State must consult the Welsh Ministers.

Commencement Information

I5 S. 5 in force at 18.2.2012 by [S.I. 2012/411](#), [art. 2\(b\)](#)

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6 Limits on power under section 5(1) **E+W**

- (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.

Commencement Information

I6 S. 6 in force at 18.2.2012 by [S.I. 2012/411](#), [art. 2\(b\)](#)

7 Procedure for orders under section 5 **E+W**

- (1) If, as a result of any consultation required by section 5(7) and (8) with respect to a proposed order under section 5(1), it appears to the Secretary of State that it is appropriate to change the whole or any part of the Secretary of State's proposals, the Secretary of State must undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (2) If, after the conclusion of the consultation required by section 5(7) and (8) and subsection (1), the Secretary of State considers it appropriate to proceed with the making of an order under section 5(1), the Secretary of State must lay before Parliament—
 - (a) a draft of the order, and
 - (b) an explanatory document explaining the proposals and giving details of—
 - (i) the Secretary of State's reasons for considering that the conditions in section 6(2), where relevant, are satisfied in relation to the proposals,
 - (ii) any consultation undertaken under section 5(7) and (8) and subsection (1),
 - (iii) any representations received as a result of the consultation, and
 - (iv) the changes (if any) made as a result of those representations.
- (3) Sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 (choosing between negative, affirmative and super-affirmative parliamentary procedure) are to

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apply in relation to an explanatory document and draft order laid under subsection (2) but as if—

- (a) section 18(11) of that Act were omitted,
 - (b) references to section 14 of that Act were references to subsection (2), and
 - (c) references to the Minister were references to the Secretary of State.
- (4) Provision under section 5(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5(2) and give details of any consultation undertaken under section 5(7) with respect to those proposals.
- (5) Section 5(7) does not apply to an order under section 5(3) or (4) which is made only for the purpose of amending an earlier such order—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

Commencement Information

I7 S. 7 in force at 18.2.2012 by [S.I. 2012/411](#), **art. 2(b)**

8 Interpretation of Chapter E+W

(1) In this Chapter—

“the general power” means the power conferred by section 1(1);

“local authority” means—

- (a) a county council in England,
- (b) a district council,
- (c) a London borough council,
- (d) the Common Council of the City of London in its capacity as a local authority,
- (e) the Council of the Isles of Scilly, or
- (f) an eligible parish council;

“statutory provision” means a provision of an Act or of an instrument made under an Act.

(2) A parish council is “eligible” for the purposes of this Chapter if the council meets the conditions prescribed by the Secretary of State by order for the purposes of this section.

Commencement Information

I8 S. 8(1) in force at 18.2.2012 by [S.I. 2012/411](#), **art. 2(b)**

I9 S. 8(2) in force at 3.12.2011 by [S.I. 2011/2896](#), **art. 2(a)**

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CHAPTER 2 **E+W**

FIRE AND RESCUE AUTHORITIES

9 **General powers of certain fire and rescue authorities** **E+W**

- (1) In Part 1 of the Fire and Rescue Services Act 2004 (fire and rescue authorities) after section 5 insert—

“5A Powers of certain fire and rescue authorities

- (1) A relevant fire and rescue authority may do—
- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
 - (b) anything it considers appropriate for purposes incidental to its functional purposes,
 - (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
 - (d) anything it considers to be connected with—
 - (i) any of its functions, or
 - (ii) anything it may do under paragraph (a), (b) or (c), and
 - (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) A relevant fire and rescue authority's power under subsection (1) is in addition to, and is not limited by, the other powers of the authority.
- (3) In this section “relevant fire and rescue authority” means a fire and rescue authority that is—
- (a) a metropolitan county fire and rescue authority,
 - (b) the London Fire and Emergency Planning Authority,
 - (c) constituted by a scheme under section 2, or
 - (d) constituted by a scheme to which section 4 applies.

5B Boundaries of power under section 5A

- (1) Section 5A(1) does not enable a relevant fire and rescue authority to do—
- (a) anything which the authority is unable to do by virtue of a pre-commencement limitation, or
 - (b) anything which the authority is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (i) to its power under section 5A(1),
 - (ii) to all of the authority's powers, or
 - (iii) to all of the authority's powers but with exceptions that do not include its power under section 5A(1).
- (2) If exercise of a pre-commencement power of a relevant fire and rescue authority is subject to restrictions, those restrictions apply also to exercise of the power conferred on the authority by section 5A(1) so far as it is overlapped by the pre-commencement power.

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- (3) Where under section 5A(1) a relevant fire and rescue authority does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (4) Section 5A(1) does not authorise a relevant fire and rescue authority to do things for a commercial purpose in relation to a person if a statutory provision requires the authority to do those things in relation to the person.
- (5) Section 5A(1) does not authorise a relevant fire and rescue authority to borrow money.
- (6) Section 5A(1)(a) to (d) do not authorise a relevant fire and rescue authority to charge a person for any action taken by the authority (but see section 18A).
- (7) Section 18B(1) to (8) apply in relation to charging for things done for a commercial purpose in exercise of power conferred by section 5A(1)(e) as they apply in relation to charging under section 18A(1).
- (8) In this section—
- “Act” (except in a reference to the Localism Act 2011) includes an Act, or Measure, of the National Assembly for Wales;
- “passed” in relation to an Act, or Measure, of the National Assembly for Wales means enacted;
- “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 9(1) of that Act;
- “pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 9(1) of that Act;
- “pre-commencement power” means power conferred by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 9(1) of that Act;
- “relevant fire and rescue authority” has meaning given by section 5A(3);
- “statutory provision” means a provision of an Act or of an instrument made under an Act.

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5C Power to make provision supplemental to section 5A

- (1) If the appropriate national authority thinks that a statutory provision (whenever passed or made) prevents or restricts relevant fire and rescue authorities from exercising power conferred by section 5A(1), the appropriate national authority may by order amend, repeal, revoke or disapply that provision.
- (2) If the appropriate national authority thinks that the power conferred by section 5A(1) is overlapped (to any extent) by another power then, for the purpose of removing or reducing that overlap, the appropriate national authority may by order amend, repeal, revoke or disapply any statutory provision (whenever passed or made).
- (3) The appropriate national authority may by order make provision preventing relevant fire and rescue authorities from doing under section 5A(1) anything which is specified, or is of a description specified, in the order.
- (4) The appropriate national authority may by order provide for the exercise by relevant fire and rescue authorities of power conferred by section 5A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (5) The power under subsection (1), (2), (3) or (4) may be exercised in relation to—
 - (a) all relevant fire and rescue authorities,
 - (b) particular relevant fire and rescue authorities, or
 - (c) particular descriptions of relevant fire and rescue authorities.
- (6) Before making an order under subsection (1), (2), (3) or (4) the appropriate national authority proposing to make the order must consult—
 - (a) such relevant fire and rescue authorities,
 - (b) such representatives of relevant fire and rescue authorities, and
 - (c) such other persons (if any),as that appropriate national authority considers appropriate.
- (7) Subsection (6) does not apply to an order under subsection (3) or (4) which is made only for the purpose of amending an earlier such order—
 - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.
- (8) The appropriate national authority's power under subsection (1) or (2) is exercisable by the Welsh Ministers so far as it is power to make provision that—
 - (a) would be within the legislative competence of the National Assembly for Wales if it were contained in an Act of the Assembly, and
 - (b) does not relate to a fire and rescue authority for an area in England.

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- (9) The appropriate national authority's power under subsection (1) or (2) is exercisable by the Secretary of State so far as it is not exercisable by the Welsh Ministers.
- (10) The appropriate national authority's power under subsection (3) or (4) is exercisable—
 - (a) in relation to England by the Secretary of State, and
 - (b) in relation to Wales by the Welsh Ministers.
- (11) In exercising power under subsection (1) or (2), the Secretary of State may make provision which has effect in relation to Wales only after having consulted the Welsh Ministers.
- (12) The Welsh Ministers may submit to the Secretary of State proposals that power of the Secretary of State under subsection (1) or (2) in relation to Wales should be exercised in accordance with the proposals.
- (13) In subsections (1) and (2) “statutory provision” means a provision of—
 - (a) an Act, or
 - (b) an instrument made under an Act,
 and in this subsection “Act” includes an Act, or Measure, of the National Assembly for Wales.
- (14) In this section “relevant fire and rescue authority” has the meaning given by section 5A(3).

5D Limits on power under section 5C(1)

- (1) Provision may not be made under section 5C(1) unless the appropriate national authority making the provision 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 5C(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 5C(1) may not make provision to abolish or vary any tax.

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5E Procedure for Secretary of State's orders under section 5C(1) and (2)

- (1) If, as a result of any consultation required by section 5C(6) and (11) with respect to a proposed order of the Secretary of State under section 5C(1), it appears to the Secretary of State that it is appropriate to change the whole or any part of the Secretary of State's proposals, the Secretary of State must undertake such further consultation with respect to the changes as the Secretary of State considers appropriate.
- (2) If, after the conclusion of the consultation required by section 5C(6) and (11) and subsection (1), the Secretary of State considers it appropriate to proceed with the making of an order under section 5C(1), the Secretary of State must lay before Parliament—
 - (a) a draft of the order, and
 - (b) an explanatory document explaining the proposals and giving details of—
 - (i) the Secretary of State's reasons for considering that the conditions in section 5D(2), where relevant, are satisfied in relation to the proposals,
 - (ii) any consultation undertaken under section 5C(6) and (11) and subsection (1),
 - (iii) any representations received as a result of the consultation, and
 - (iv) the changes (if any) made as a result of those representations.
- (3) Sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 (choosing between negative, affirmative and super-affirmative parliamentary procedure) are to apply in relation to an explanatory document and draft order laid under subsection (2) but as if—
 - (a) section 18(11) of that Act were omitted,
 - (b) references to section 14 of that Act were references to subsection (2), and
 - (c) references to the Minister were references to the Secretary of State.
- (4) Provision proposed to be made by the Secretary of State under section 5C(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5C(2) and give details of any consultation undertaken under section 5C(6) and (11) with respect to those proposals.

5F Procedure for Welsh Ministers' orders under section 5C(1) and (2)

- (1) If, as a result of any consultation required by section 5C(6) with respect to a proposed order of the Welsh Ministers under section 5C(1), it appears to the Welsh Ministers that it is appropriate to change the whole or any part of their proposals, they must undertake such further consultation with respect to the changes as they consider appropriate.
- (2) If, after the conclusion of the consultation required by section 5C(6) and subsection (1), the Welsh Ministers consider it appropriate to proceed with

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the making of an order under section 5C(1), they must lay before the National Assembly for Wales—

- (a) a draft of the order, and
 - (b) an explanatory document explaining the proposals and giving details of—
 - (i) the Welsh Ministers' reasons for considering that the conditions in section 5D(2), where relevant, are satisfied in relation to the proposals,
 - (ii) any consultation undertaken under section 5C(6) and subsection (1),
 - (iii) any representations received as a result of the consultation, and
 - (iv) the changes (if any) made as a result of those representations.
- (3) Provision proposed to be made by the Welsh Ministers under section 5C(2) may be included in a draft order laid under subsection (2) and, if it is, the explanatory document laid with the draft order must also explain the proposals under section 5C(2) and give details of any consultation undertaken under section 5C(6) with respect to those proposals.

5G Determining Assembly procedures for drafts laid under section 5F(2)

- (1) The explanatory document laid with a draft order under section 5F(2) must contain a recommendation by the Welsh Ministers as to which of the following should apply in relation to the making of an order pursuant to the draft order—
 - (a) the negative resolution procedure (see section 5H),
 - (b) the affirmative resolution procedure (see section 5J), or
 - (c) the super-affirmative resolution procedure (see section 5K).
- (2) The explanatory document must give reasons for the Welsh Ministers' recommendation.
- (3) Where the Welsh Ministers' recommendation is that the negative resolution procedure should apply, that procedure applies unless, within the 30-day period—
 - (a) the National Assembly for Wales requires the application of the super-affirmative resolution procedure, in which case that procedure applies, or
 - (b) in a case not within paragraph (a), the Assembly requires the application of the affirmative resolution procedure, in which case that procedure applies.
- (4) Where the Welsh Ministers' recommendation is that the affirmative resolution procedure should apply, that procedure applies unless, within the 30-day period, the National Assembly for Wales requires the application of the super-affirmative resolution procedure, in which case the super-affirmative resolution procedure applies.
- (5) Where the Welsh Ministers' recommendation is that the super-affirmative resolution procedure should apply, that procedure applies.
- (6) For the purposes of this section, the National Assembly for Wales is to be taken to have required the application of a procedure within the 30-day period if—

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- (a) the Assembly resolves within that period that that procedure is to apply, or
 - (b) in a case not within paragraph (a), a committee of the Assembly charged with reporting on the draft order has recommended within that period that that procedure should apply and the Assembly has not by resolution rejected that recommendation within that period.
- (7) In this section “the 30-day period” means the 30 days beginning with the day on which the draft order was laid before the National Assembly for Wales under section 5F(2).

5H Negative resolution procedure for draft laid under section 5F(2)

- (1) For the purposes of this Part, “the negative resolution procedure” in relation to the making of an order pursuant to a draft order laid under section 5F(2) is as follows.
- (2) The Welsh Ministers may make an order in the terms of the draft order subject to the following provisions of this section.
- (3) The Welsh Ministers may not make an order in the terms of the draft order if the National Assembly for Wales so resolves within the 40-day period.
- (4) A committee of the National Assembly for Wales charged with reporting on the draft order may, at any time after the expiry of the 30-day period and before the expiry of the 40-day period, recommend under this subsection that the Welsh Ministers not make an order in the terms of the draft order.
- (5) Where a committee of the National Assembly for Wales makes a recommendation under subsection (4) in relation to a draft order, the Welsh Ministers may not make an order in the terms of the draft order unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.
- (6) For the purposes of this section an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.
- (7) In this section—
 - “the 30-day period” has the meaning given by section 5G(7), and
 - “the 40-day period” means the 40 days beginning with the day on which the draft order was laid before the National Assembly for Wales under section 5F(2).
- (8) For the purpose of calculating the 40-day period in a case where a recommendation is made under subsection (4) by a committee of the National Assembly for Wales but the recommendation is rejected by the Assembly under subsection (5), no account is to be taken of any day between the day on which the recommendation was made and the day on which the recommendation was rejected.

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5J Affirmative resolution procedure for draft laid under section 5F(2)

- (1) For the purposes of this Part, “the affirmative resolution procedure” in relation to the making of an order pursuant to a draft order laid under section 5F(2) is as follows.
- (2) If after the expiry of the 40-day period the draft order is approved by a resolution of the National Assembly for Wales, the Welsh Ministers may make an order in the terms of the draft.
- (3) However, a committee of the National Assembly for Wales charged with reporting on the draft order may, at any time after the expiry of the 30-day period and before the expiry of the 40-day period, recommend under this subsection that no further proceedings be taken in relation to the draft order.
- (4) Where a committee of the National Assembly for Wales makes a recommendation under subsection (3) in relation to a draft order, no proceedings may be taken in relation to the draft order in the Assembly under subsection (2) unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.
- (5) For the purposes of subsection (2) an order is made in the terms of a draft order if the order contains no material changes to the provisions of the draft order.
- (6) In this section—
 - “the 30-day period” has the meaning given by section 5G(7), and
 - “the 40-day period” has the meaning given by section 5H(7).
- (7) For the purpose of calculating the 40-day period in a case where a recommendation is made under subsection (3) by a committee of the National Assembly for Wales but the recommendation is rejected by the Assembly under subsection (4), no account is to be taken of any day between the day on which the recommendation was made and the day on which the recommendation was rejected.

5K Super-affirmative resolution procedure for draft laid under section 5F(2)

- (1) For the purposes of this Part, “the super-affirmative resolution procedure” in relation to the making of an order pursuant to a draft order laid under section 5F(2) is as follows.
- (2) The Welsh Ministers must have regard to—
 - (a) any representations,
 - (b) any resolution of the National Assembly for Wales, and
 - (c) any recommendation of a committee of the Assembly charged with reporting on the draft order,
 made during the 60-day period in relation to the draft order.
- (3) If, after the expiry of the 60-day period, the Welsh Ministers want to make an order in the terms of the draft order, they must lay before the National Assembly for Wales a statement—

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- (a) stating whether any representations were made under subsection (2)(a), and
 - (b) if any representations were so made, giving details of them.
- (4) The Welsh Ministers may after the laying of such a statement make an order in the terms of the draft order if it is approved by a resolution of the National Assembly for Wales.
- (5) However, a committee of the National Assembly for Wales charged with reporting on the draft order may, at any time after the laying of a statement under subsection (3) and before the draft order is approved by the Assembly under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.
- (6) Where a committee of the National Assembly for Wales makes a recommendation under subsection (5) in relation to a draft order, no proceedings may be taken in relation to the draft order in the Assembly under subsection (4) unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.
- (7) If, after the expiry of the 60-day period, the Welsh Ministers wish to make an order consisting of a version of the draft order with material changes, they must lay before the National Assembly for Wales—
 - (a) a revised draft order, and
 - (b) a statement giving details of—
 - (i) any representations made under subsection (2)(a), and
 - (ii) the revisions proposed.
- (8) The Welsh Ministers may after laying a revised draft order and statement under subsection (7) make an order in the terms of the revised draft order if it is approved by a resolution of the National Assembly for Wales.
- (9) However, a committee of the National Assembly for Wales charged with reporting on the revised draft order may, at any time after the revised draft order is laid under subsection (7) and before it is approved by the Assembly under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.
- (10) Where a committee of the National Assembly for Wales makes a recommendation under subsection (9) in relation to a revised draft order, no proceedings may be taken in relation to the revised draft order in the Assembly under subsection (8) unless the recommendation is, in the same Assembly, rejected by resolution of the Assembly.
- (11) For the purposes of subsections (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.
- (12) In this section “the 60-day period” means the 60 days beginning with the day on which the draft order was laid before the National Assembly for Wales under section 5F(2).

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5L Calculation of time periods

In calculating any period of days for the purposes of sections 5G to 5K, no account is to be taken of any time during which the National Assembly for Wales is dissolved or during which the Assembly is in recess for more than four days.”

- (2) Omit section 5 of the Fire and Rescue Services Act 2004 (power of combined fire and rescue authorities corresponding to the power under section 111 of the Local Government Act 1972).
- (3) In section 60(1) of the Fire and Rescue Services Act 2004 (meaning of “subordinate legislation”) for “by the Secretary of State under this Act” substitute “ under this Act by the Secretary of State or the Welsh Ministers ”.
- (4) In section 60(4) of the Fire and Rescue Services Act 2004 (orders and regulations subject to affirmative procedure) for “subordinate legislation which amends or repeals any Act or provision of an Act may” substitute “—
 - (a) an order made by the Secretary of State under section 5C(3), other than one that is made only for the purpose mentioned in section 5C(7)(b),
 - (b) an order made by the Secretary of State under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose,
 - (c) an order made by the Secretary of State under section 5C(2) that—
 - (i) amends any Act or provision of an Act, and
 - (ii) is not made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5E(3), or
 - (d) subordinate legislation made by the Secretary of State, other than an order under section 5C, that amends or repeals any Act or provision of an Act,

may”.
- (5) In section 60(5) of the Fire and Rescue Services Act 2004 (orders and regulations subject to negative procedure) for “legislation, apart from an order under section 30 or 61, is” substitute “legislation made by the Secretary of State, apart from—
 - (1) (a) an order under section 5C(1),
 - (b) an order under section 5C(2) that is made in accordance with sections 15 to 19 of the Legislative and Regulatory Reform Act 2006 as applied by section 5E(3), or
 - (c) an order under section 30 or 61,

is”.
- (6) In section 60 of the Fire and Rescue Services Act 2004 (orders and regulations) after subsection (5) insert—

“(6) A statutory instrument containing (alone or with other provisions)—

 - (a) an order made by the Welsh Ministers under section 5C(3), other than one that it is made only for the purpose mentioned in section 5C(7)(b),

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- (b) an order made by the Welsh Ministers under section 5C(4), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose,
 - (c) an order made by the Welsh Ministers under section 5C(2) that—
 - (i) amends any Act or provision of an Act or amends any Act, or Measure, of the National Assembly for Wales or provision of such an Act or Measure, and
 - (ii) is not made in accordance with sections 5G to 5L, or
 - (d) subordinate legislation made by the Welsh Ministers, other than an order under section 5C, that amends any Act or provision of an Act, may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (7) A statutory instrument containing any other subordinate legislation made by the Welsh Ministers, apart from—
- (a) an order under section 5C(1),
 - (b) an order under section 5C(2) that is made in accordance with sections 5G to 5L, or
 - (c) an order under section 30 or 61,
- is subject to annulment in pursuance of a resolution of the National Assembly for Wales.”
- (7) In section 62 of the Fire and Rescue Services Act 2004 (application of Act in Wales)—
- (a) in subsection (1)(b) (references to Secretary of State in sections 60 and 61) for “sections 60 and” substitute “ section ”,
 - (b) after subsection (1) insert—

“(1A) The reference in subsection (1)(a) to Parts 1 to 6 does not include—

 - (a) sections 5A and 5B,
 - (b) sections 5C and 5D,
 - (c) section 5E, and
 - (d) sections 5F to 5L.”, and
 - (c) omit subsection (3) (disapplication of section 60(4) and (5)).
- (8) In section 146A of the Local Government Act 1972 (application of provisions to certain joint and other authorities)—
- (a) in subsection (1) after “Subject to subsections (1ZA), (1ZB)” insert “ , (1ZC) ”, and
 - (b) after subsection (1ZB) insert—

“(1ZC) Neither a metropolitan county fire and rescue authority, nor the London Fire and Emergency Planning Authority, is to be treated as a local authority for the purposes of section 111 above (but see section 5A of the Fire and Rescue Services Act 2004).”

Commencement Information

I10 S. 9(1) in force at 18.2.2012 for specified purposes by S.I. 2012/411, art. 2(c)

I11 S. 9(2) in force at 18.2.2012 for specified purposes by S.I. 2012/411, art. 2(c)

I12 S. 9(4)(5)(8) in force at 18.2.2012 by S.I. 2012/411, art. 2(c)

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113 S. 9(7)(b) in force at 18.2.2012 for specified purposes by S.I. 2012/411, art. 2(c)

10 Fire and rescue authorities: charging E+W

- (1) The Fire and Rescue Services Act 2004 is amended as follows.
- (2) After section 18 insert—

“18A Charging by authorities

- (1) A fire and rescue authority may charge a person for any action taken by the authority—
 - (a) in the United Kingdom or at sea or under the sea, and
 - (b) otherwise than for a commercial purpose,
 but this is subject to the provisions of this section and section 18B.
- (2) Subsection (1) authorises a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the authority.
- (3) Before a fire and rescue authority begins to charge under subsection (1) or section 5A(1)(e) for taking action of a particular description, the authority must consult any persons the authority considers appropriate.
- (4) If a fire and rescue authority decides to charge under subsection (1) for taking action of a particular description—
 - (a) the amount of the charge is to be set by the authority;
 - (b) the authority may charge different amounts in different circumstances (and may charge nothing).
- (5) In setting the amount of a charge under subsection (1), a fire and rescue authority must secure that, taking one financial year with another, the authority's income from charges does not exceed the cost to the authority of taking the action for which the charges are imposed.
- (6) The duty under subsection (5) applies separately in relation to each kind of action.
- (7) The references in subsection (1) and section 18B(1) to “sea” are not restricted to the territorial sea of the United Kingdom.
- (8) In subsection (5) “financial year” means 12 months ending with 31 March.

18B Limits on charging under section 18A(1)

- (1) Section 18A(1) authorises charging for extinguishing fires, or protecting life and property in the event of fires, only in respect of fires which are at sea or under the sea.
- (2) Section 18A(1) does not authorise charging for emergency medical assistance.
- (3) Section 18A(1) authorises charging for action taken in response to a report of a fire or explosion only if section 18C applies to the report.

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- (4) Section 18A(1) does not authorise charging for rescuing individuals, or protecting individuals from serious harm, in the event of an emergency.
- (5) Section 18A(1) does not authorise charging for action taken in response to—
 - (a) emergencies resulting from events of widespread significance,
 - (b) emergencies which have occurred as a direct result of severe weather, or
 - (c) emergencies resulting from road traffic accidents.
- (6) Subject to subsection (7), section 18A(1) does not authorise charging for action taken under section 6.
- (7) Subsection (6) does not prevent charging for the giving of advice, other than advice of the kind mentioned in section 6(2)(b), in relation to premises where a trade, business or other undertaking is carried on (whether for profit or not).
- (8) Section 18A(1) does not authorise charging for action taken by a fire and rescue authority in its capacity as an enforcing authority for the purposes of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541).
- (9) Nothing in subsections (1) to (8)—
 - (a) applies to charges for providing under section 12 the services of any persons or any equipment,
 - (b) affects the operation of section 13(3) or 16(3), or
 - (c) affects any provision for payments to a fire and rescue authority contained in arrangements for co-operation made between that authority and—
 - (i) a public authority that is not a fire and rescue authority, or
 - (ii) any person, other than a public authority, who exercises public functions.
- (10) The Secretary of State in relation to fire and rescue authorities in England, and the Welsh Ministers in relation to fire and rescue authorities in Wales, may by order disapply subsection 18A(1) in relation to actions of a particular kind.
- (11) The power under subsection (10) includes power to disapply for a particular period.

18C Cases where a charge may be made for responding to report of fire etc

- (1) This section applies for the purposes of section 18B(3).
- (2) This section applies to a report of fire, or explosion, at sea or under the sea.
- (3) This section applies to a report of fire if—
 - (a) the report is of fire at premises that are not domestic premises,
 - (b) the report is false,
 - (c) the report is made as a direct or indirect result of warning equipment having malfunctioned or been misinstalled, and
 - (d) there is a persistent problem with false reports of fire at the premises that are made as a direct or indirect result of warning equipment under common control having malfunctioned or been misinstalled.

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(4) The references in subsection (2) to “sea” are not restricted to the territorial sea of the United Kingdom.

(5) In subsection (3)—

“domestic premises” means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);

“warning equipment” means equipment installed for the purpose of—

(a) detecting fire, or

(b) raising the alarm, or enabling the alarm to be raised, in the event of fire.”

(3) Omit section 19 (charging).

(4) In section 62 (application of Act in Wales) before subsection (2) insert—

“(1B) The reference in subsection (1)(a) to Parts 1 to 6 does not include sections 18A to 18C.”

(5) Where immediately before the coming into force of subsections (1) to (3) in relation to England or Wales an order under section 19(1) of the Fire and Rescue Services Act 2004 authorises a fire and rescue authority in England or (as the case may be) Wales to charge for action of a specified description taken by the authority, section 18A(3) of that Act does not apply in relation to action of that description.

Commencement Information

I14 S. 10(1)-(3)(5) in force at 18.2.2012 for specified purposes by S.I. 2012/411, art. 2(d)

CHAPTER 3 E+W

OTHER AUTHORITIES

11 Integrated Transport Authorities E+W

In Part 5 of the Local Transport Act 2008 (integrated transport authorities etc) after section 102A insert—

“CHAPTER 4 E+W

GENERAL POWERS

102B Powers of Integrated Transport Authorities

(1) An ITA may do—

(a) anything the ITA considers appropriate for the purposes of the carrying-out of any of the ITA's functions (the ITA's “functional purposes”),

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- (b) anything the ITA considers appropriate for purposes incidental to the ITA's functional purposes,
 - (c) anything the ITA considers appropriate for purposes indirectly incidental to the ITA's functional purposes through any number of removes,
 - (d) anything the ITA considers to be connected with—
 - (i) any of the ITA's functions, or
 - (ii) anything the ITA may do under paragraph (a), (b) or (c), and
 - (e) for a commercial purpose anything which the ITA may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on an ITA to do something, it confers power (subject to section 102C) to do it anywhere in the United Kingdom or elsewhere.
- (3) An ITA's power under subsection (1) is in addition to, and is not limited by, the other powers of the ITA.
- (4) Subsection (5) applies if there is, in relation to an ITA—
- (a) a Passenger Transport Executive established under section 9 of the TA 1968 for the integrated transport area of the ITA, or
 - (b) an executive body established by virtue of section 79(1)(a) or 84(2)(d).
- (5) The ITA may delegate to the Executive or body the ITA's function of taking action under subsection (1) (but not the function of determining what action to take).

102C Boundaries of power under section 102B

- (1) Section 102B(1) does not enable an ITA to do—
- (a) anything which the ITA is unable to do by virtue of a pre-commencement limitation, or
 - (b) anything which the ITA is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (i) to the ITA's power under section 102B(1),
 - (ii) to all of the ITA's powers, or
 - (iii) to all of the ITA's powers but with exceptions that do not include the ITA's power under section 102B(1).
- (2) If exercise of a pre-commencement power of an ITA is subject to restrictions, those restrictions apply also to exercise of the power conferred on the ITA by section 102B(1) so far as it is overlapped by the pre-commencement power.
- (3) Section 102B(1) does not authorise an ITA to borrow money.
- (4) Section 102B(1)(a) to (d) do not authorise an ITA to charge a person for anything done by the ITA otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of ITAs and other best value authorities to charge for discretionary services)).
- (5) Section 102B(1)(e) does not authorise an ITA to do things for a commercial purpose in relation to a person if a statutory provision requires the ITA to do those things in relation to the person.

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- (6) Where under section 102B(1)(e) an ITA does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—
- “post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 11 of that Act;
- “pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 11 of that Act;
- “pre-commencement power” means power conferred by a statutory provision that—
- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 11 of that Act;
- “statutory provision” means a provision of an Act or of an instrument made under an Act.

102D Power to make provision supplemental to section 102B

- (1) The Secretary of State may by order made by statutory instrument make provision preventing ITAs from doing under section 102B(1) anything which is specified, or is of a description specified, in the order.
- (2) The Secretary of State may by order made by statutory instrument provide for the exercise by ITAs of power conferred by section 102B(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (3) The power under subsection (1) or (2) may be exercised in relation to—
 - (a) all ITAs,
 - (b) particular ITAs, or
 - (c) particular descriptions of ITAs.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
 - (a) such representatives of ITAs,
 - (b) such representatives of local government, and

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- (c) such other persons (if any),
as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
 - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular ITA or to ITAs of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular ITA or to ITAs of a particular description.
- (6) Power to make an order under this section includes—
 - (a) power to make different provision for different cases, circumstances or areas, and
 - (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (7) The Secretary of State may not make an order to which subsection (8) applies unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.
- (8) This subsection applies to—
 - (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
 - (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.
- (9) A statutory instrument that—
 - (a) contains an order made under this section, and
 - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,is subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

I15 S. 11 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

12 Passenger Transport Executives **E+W**

- (1) In Part 2 of the Transport Act 1968 (integrated transport authorities etc) after section 10 insert—

“10A Further powers of Executives

- (1) The Executive of an integrated transport area in England may do—
 - (a) anything the Executive considers appropriate for the purposes of the carrying-out of any of the Executive's functions (the Executive's “functional purposes”),

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- (b) anything the Executive considers appropriate for purposes incidental to the Executive's functional purposes,
 - (c) anything the Executive considers appropriate for purposes indirectly incidental to the Executive's functional purposes through any number of removes,
 - (d) anything the Executive considers to be connected with—
 - (i) any of the Executive's functions, or
 - (ii) anything the Executive may do under paragraph (a), (b) or (c), and
 - (e) for a commercial purpose anything which the Executive may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on the Executive to do something, it confers power (subject to section 10B) to do it anywhere in the United Kingdom or elsewhere.
- (3) The Executive's power under subsection (1) is in addition to, and is not limited by, the other powers of the Executive.

10B Boundaries of power under section 10A

- (1) Section 10A(1) does not enable the Executive to do—
- (a) anything which the Executive is unable to do by virtue of a pre-commencement limitation, or
 - (b) anything which the Executive is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (i) to the Executive's power under section 10A(1),
 - (ii) to all of the Executive's powers, or
 - (iii) to all of the Executive's powers but with exceptions that do not include the Executive's power under section 10A(1).
- (2) If exercise of a pre-commencement power of the Executive is subject to restrictions, those restrictions apply also to exercise of the power conferred on the Executive by section 10A(1) so far as it is overlapped by the pre-commencement power.
- (3) Section 10A(1) does not authorise the Executive to borrow money.
- (4) Section 10A(1)(a) to (d) do not authorise the Executive to charge a person for anything done by the Executive otherwise than for a commercial purpose, but this does not limit any power to charge that the Executive has otherwise than under section 10A(1)(a) to (d).
- (5) Section 10A(1)(e) does not authorise the Executive to do things for a commercial purpose in relation to a person if a statutory provision requires the Executive to do those things in relation to the person.
- (6) Where under section 10A(1)(e) the Executive does things for a commercial purpose, it must do them through—
- (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or

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- (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

(7) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

- (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
- (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 12(1) of that Act;

“pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
- (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(1) of that Act;

“pre-commencement power” means power conferred by a statutory provision that—

- (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
- (b) is contained in an instrument made under an Act and comes into force before the commencement of section 12(1) of that Act;

“statutory provision” means a provision of an Act or of an instrument made under an Act.

10C Power to make provision supplemental to section 10A

- (1) The Secretary of State may by order make provision preventing the Executive from doing under section 10A(1) anything which is specified, or is of a description specified, in the order.
- (2) The Secretary of State may by order provide for the exercise by the Executive of power conferred by section 10A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
- (3) The power under subsection (1) or (2) may be exercised in relation to—
 - (a) all Executives,
 - (b) particular Executives, or
 - (c) particular descriptions of Executives.
- (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
 - (a) such representatives of Executives,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),as the Secretary of State considers appropriate.
- (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—

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- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular Executive or to Executives of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular Executive or to Executives of a particular description.
- (6) Power to make an order under this section includes—
- (a) power to make different provision for different cases, circumstances or areas, and
 - (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (7) A statutory instrument containing an order to which subsection (8) applies (whether alone or with other provisions) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) This subsection applies to—
- (a) an order under subsection (1), other than one that is made only for the purpose mentioned in subsection (5)(b);
 - (b) an order under subsection (2), other than one that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose.
- (9) A statutory instrument that—
- (a) contains an order made under this section, and
 - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- is subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 10(1) of the Transport Act 1968 (powers of a Passenger Transport Executive)—
- (a) in paragraph (xxvii) (power to invest sums not immediately needed) for “any sums which are not immediately required by them for the purposes of their business” substitute “their money”, and
 - (b) in paragraph (xxviii) (power to turn unneeded resources to account) omit “so far as not required for the purposes of their business”.
- (3) In section 22 of the Transport Act 1968 (orders under Part 2 of that Act to be subject to annulment) after subsection (2) insert—
- “(2A) Subsections (1) and (2) of this section do not apply in relation to orders under section 10C of this Act (but see subsections (7) to (9) of that section).”
- (4) In section 93(9) of the Local Government Act 2003 (authorities with power under section 93 to charge for discretionary services) before paragraph (b) insert—
- “(ab) the Passenger Transport Executive of an integrated transport area in England;”.
- (5) In section 95(7) of the Local Government Act 2003 (power to authorise certain authorities to do for commercial purposes things that they can do for non-commercial purposes) in the definition of “relevant authority” before paragraph (b) insert—

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“(ab) the Passenger Transport Executive of an integrated transport area in England;”.

Commencement Information

I16 S. 12 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

13 Economic prosperity boards and combined authorities **E+W**

(1) In Part 6 of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities) after section 113 insert—

“General powers of EPBs and combined authorities

113A General power of EPB or combined authority

- (1) An EPB or combined authority may do—
- (a) anything it considers appropriate for the purposes of the carrying-out of any of its functions (its “functional purposes”),
 - (b) anything it considers appropriate for purposes incidental to its functional purposes,
 - (c) anything it considers appropriate for purposes indirectly incidental to its functional purposes through any number of removes,
 - (d) anything it considers to be connected with—
 - (i) any of its functions, or
 - (ii) anything it may do under paragraph (a), (b) or (c), and
 - (e) for a commercial purpose anything which it may do under any of paragraphs (a) to (d) otherwise than for a commercial purpose.
- (2) Where subsection (1) confers power on an EPB or combined authority to do something, it confers power (subject to section 113B) to do it anywhere in the United Kingdom or elsewhere.
- (3) Power conferred on an EPB or combined authority by subsection (1) is in addition to, and is not limited by, its other powers.

113B Boundaries of power under section 113A

- (1) Section 113A(1) does not enable an EPB or combined authority to do—
- (a) anything which it is unable to do by virtue of a pre-commencement limitation, or
 - (b) anything which it is unable to do by virtue of a post-commencement limitation which is expressed to apply—
 - (i) to its power under section 113A(1),
 - (ii) to all of its powers, or
 - (iii) to all of its powers but with exceptions that do not include its power under section 113A(1).
- (2) If exercise of a pre-commencement power of an EPB or combined authority is subject to restrictions, those restrictions apply also to exercise of the power

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conferred on it by section 113A(1) so far as that power is overlapped by the pre-commencement power.

- (3) Section 113A(1) does not authorise an EPB or combined authority to borrow money.
- (4) Section 113A(1)(a) to (d) do not authorise an EPB or combined authority to charge a person for anything done by it otherwise than for a commercial purpose (but see section 93 of the Local Government Act 2003 (power of EPBs, combined authorities and other best value authorities to charge for discretionary services)).
- (5) Section 113A(1)(e) does not authorise an EPB or combined authority to do things for a commercial purpose in relation to a person if a statutory provision requires it to do those things in relation to the person.
- (6) Where under section 113A(1)(e) an EPB or combined authority does things for a commercial purpose, it must do them through—
 - (a) a company within the meaning given by section 1(1) of the Companies Act 2006, or
 - (b) a society registered or deemed to be registered under the Co-operative and Community Benefit Societies and Credit Unions Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
- (7) In this section—

“post-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

 - (a) is contained in an Act passed after the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force on or after the commencement of section 13(1) of that Act;

“pre-commencement limitation” means a prohibition, restriction or other limitation imposed by a statutory provision that—

 - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;

“pre-commencement power” means power conferred by a statutory provision that—

 - (a) is contained in an Act passed no later than the end of the Session in which the Localism Act 2011 is passed, or
 - (b) is contained in an instrument made under an Act and comes into force before the commencement of section 13(1) of that Act;

“statutory provision” means a provision of an Act or of an instrument made under an Act.

113C Power to make provision supplemental to section 113A

- (1) The Secretary of State may by order make provision preventing EPBs or combined authorities from doing under section 113A(1) anything which is specified, or is of a description specified, in the order.

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- (2) The Secretary of State may by order provide for the exercise by EPBs or combined authorities of power conferred by section 113A(1) to be subject to conditions, whether generally or in relation to doing anything specified, or of a description specified, in the order.
 - (3) The power under subsection (1) or (2) may be exercised in relation to—
 - (a) all EPBs,
 - (b) all combined authorities,
 - (c) particular EPBs,
 - (d) particular combined authorities,
 - (e) particular descriptions of EPBs, or
 - (f) particular descriptions of combined authorities.
 - (4) Before making an order under subsection (1) or (2) the Secretary of State must consult—
 - (a) such representatives of EPBs or combined authorities,
 - (b) such representatives of local government, and
 - (c) such other persons (if any),as the Secretary of State considers appropriate.
 - (5) Subsection (4) does not apply to an order under subsection (1) or (2) which is made only for the purpose of amending an earlier such order—
 - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular EPB or combined authority or to EPBs or combined authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular EPB or combined authority or to EPBs or combined authorities of a particular description.
 - (6) Power to make an order under this section includes—
 - (a) power to make different provision for different cases, circumstances or areas, and
 - (b) power to make incidental, supplementary, consequential, transitional or transitory provision or savings.”
- (2) For section 117(2) and (3) of the Local Democracy, Economic Development and Construction Act 2009 (affirmative procedure applies to orders under Part 6 other than certain orders under section 116) substitute—
- “(2) An order to which subsection (2A) applies may not be made unless a draft of the statutory instrument containing the order (whether alone or with other provisions) has been laid before, and approved by a resolution of, each House of Parliament.
- (2A) This subsection applies to an order under this Part other than—
 - (a) an order under section 113C(1) that is made only for the purpose mentioned in section 113C(5)(b),
 - (b) an order under section 113C(2) that is made only for that purpose or for imposing conditions on the doing of things for a commercial purpose, or

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- (c) an order under section 116 that amends or revokes provision contained in an instrument subject to annulment by resolution of either House of Parliament.
- (3) A statutory instrument that—
- (a) contains an order under this Part, and
 - (b) is not subject to any requirement that a draft of the instrument be laid before, and approved by a resolution of, each House of Parliament,
- is subject to annulment by resolution of either House of Parliament.”

Commencement Information

I17 S. 13 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

14 Further amendments E+W

- (1) In section 146A of the Local Government Act 1972 (application of provisions to certain joint and other authorities)—

- (a) in subsection (1) for “or (1A)” substitute “, (1ZD) or (1ZE) ”, and
- (b) after subsection (1ZC) (which is inserted by section 9 of this Act) insert—

“(1ZD) An Integrated Transport Authority is not to be treated as a local authority for the purposes of section 111 above (but see section 102B of the Local Transport Act 2008).

(1ZE) Neither an economic prosperity board, nor a combined authority, is to be treated as a local authority for the purposes of section 111 above (but see section 113A of the Local Democracy, Economic Development and Construction Act 2009).”

- (2) In section 93(7) of the Local Government Act 2003 (provisions that do not count as prohibitions on charging for the purposes of section 93(2)(b)) after paragraph (c) insert—

- “(d) section 100(2) of the Local Transport Act 2008 (well-being powers of Integrated Transport Authorities and combined authorities),
- (e) section 102C(4) of that Act (Integrated Transport Authorities),
- (f) section 10B(4) of the Transport Act 1968 (Passenger Transport Executives), and
- (g) section 113B(4) of the Local Democracy, Economic Development and Construction Act 2009 (economic prosperity boards and combined authorities).”

Commencement Information

I18 S. 14 in force at 18.2.2012 by S.I. 2012/411, art. 2(e)

Status: Point in time view as at 18/02/2012. This version of this part contains provisions that are not valid for this point in time.
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CHAPTER 4 **E+W**

TRANSFER AND DELEGATION OF FUNCTIONS TO CERTAIN AUTHORITIES

15 **Power to transfer local public functions to permitted authorities** **E+W**

- (1) The Secretary of State may by order make provision—
 - (a) transferring a local public function from the public authority whose function it is to a permitted authority;
 - (b) about the discharge of local public functions that are transferred to permitted authorities under this section (including provision enabling the discharge of those functions to be delegated).
- (2) An order under this section may modify any enactment (whenever passed or made) for the purpose of making the provision mentioned in subsection (1).
- (3) The power to modify an enactment in subsection (2) is a power—
 - (a) to apply that enactment with or without modifications,
 - (b) to extend, disapply or amend that enactment, or
 - (c) to repeal or revoke that enactment with or without savings.
- (4) An order under this section may disapply, or modify the application of, Chapter 4 of Part 1A of the Local Government Act 2000 (changing local authority governance arrangements) in relation to a county council or district council to which the order transfers a local public function.
- (5) The Secretary of State may not make an order under this section unless the Secretary of State considers that it is likely that making the order would—
 - (a) promote economic development or wealth creation, or
 - (b) increase local accountability in relation to each local public function transferred by the order.
- (6) For the purposes of subsection (5)(b), in relation to a local public function, local accountability is increased if the exercise of the function becomes more accountable to persons living or working in the area of the permitted authority to which it is transferred.
- (7) The Secretary of State may not make an order under this section unless the Secretary of State considers that the local public function transferred by the order can appropriately be exercised by the permitted authority to which it is transferred.
- (8) The Secretary of State may not make an order under this section transferring a local public function to a permitted authority unless the authority has consented to the transfer.
- (9) Before making an order under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

Commencement Information

I19 S. 15 in force at 3.12.2011 by [S.I. 2011/2896](#), [art. 2\(b\)](#)

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16 Delegation of functions by Ministers to permitted authorities **E+W**

- (1) A Minister of the Crown may, to such extent and subject to such conditions as that Minister thinks fit, delegate to a permitted authority any of the Minister's eligible functions.
- (2) A function is eligible for the purposes of subsection (1) if—
 - (a) it does not consist of a power to make regulations or other instruments of a legislative character or a power to fix fees or charges, and
 - (b) the Minister of the Crown considers that it can appropriately be exercised by the permitted authority.
- (3) No delegation under subsection (1), and no variation of a delegation under that subsection, may be made without the agreement of the permitted authority.
- (4) Before delegating a function under subsection (1), the Minister of the Crown must consult such persons as the Minister considers appropriate.
- (5) A delegation under subsection (1) may be revoked at any time by any Minister of the Crown.

Commencement Information

I20 S. 16 in force at 15.1.2012 by S.I. 2012/57, art. 4(1)(a) (with arts. 6, 7, arts. 9-11)

17 Transfer schemes **E+W**

- (1) The Secretary of State may make a scheme for the transfer of property, rights or liabilities from the person who, or body which, would have a local public function but for an order under section 15 to the permitted authority to which the function is transferred.
- (2) A Minister of the Crown may make a scheme for the transfer from the Crown to a permitted authority of such property, rights or liabilities as the Minister of the Crown considers appropriate in consequence of a delegation, or the variation of a delegation, under section 16 of a function of any Minister of the Crown to the permitted authority.
- (3) A Minister of the Crown may make a scheme for the transfer from a permitted authority to the Crown of such property, rights or liabilities as the Minister of the Crown considers appropriate in consequence of a variation or revocation of a delegation under section 16 of a function of any Minister of the Crown to the permitted authority.
- (4) The things that may be transferred under a transfer scheme include—
 - (a) property, rights or liabilities that could not otherwise be transferred;
 - (b) property acquired, or rights or liabilities arising, after the making of the order.
- (5) A transfer scheme may make consequential, supplementary, incidental and transitional provision and may in particular make provision—
 - (a) for a certificate issued by a Minister of the Crown to be conclusive evidence that property has been transferred;
 - (b) creating rights, or imposing liabilities, in relation to property or rights transferred;

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- (c) about the continuing effect of things done by or in relation to the transferor in respect of anything transferred;
 - (d) about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (e) for references to the transferor in an instrument or other document relating to anything transferred to be treated as references to the transferee;
 - (f) for the shared ownership or use of property;
 - (g) that has the same or similar effect as the TUPE regulations (so far as those regulations do not apply in relation to the transfer).
- (6) A transfer scheme may provide—
- (a) for modification by agreement;
 - (b) for modifications to have effect from the date when the original scheme came into effect.
- (7) For the purposes of this section—
- (a) an individual who holds employment in the civil service is to be treated as employed by virtue of a contract of employment, and
 - (b) the terms of the individual's employment in the civil service are to be regarded as constituting the terms of the contract of employment.
- (8) In this section—
- “civil service” means the civil service of the State;
 - “transferee”, in relation to a transfer scheme, means the person to whom property, rights or liabilities are transferred by the scheme;
 - “transferor”, in relation to a transfer scheme, means the person from whom property, rights or liabilities are transferred by the scheme;
 - “transfer scheme” means a scheme for the transfer of property, rights or liabilities under subsection (1), (2) or (3);
 - “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246);
 - references to rights and liabilities include rights and liabilities relating to a contract of employment;
 - references to the transfer of property include the grant of a lease.

Commencement Information

I21 S. 17 in force at 15.1.2012 by S.I. 2012/57, art. 4(1)(a) (with arts. 6, 7, arts. 9-11)

18 **Duty to consider proposals for exercise of powers under sections 15 and 17** **E**

+W

- (1) If the Secretary of State receives a relevant proposal from a permitted authority, the Secretary of State must—
- (a) consider the proposal, and
 - (b) notify the permitted authority of what action, if any, the Secretary of State will take in relation to the proposal.

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- (2) The Secretary of State may by regulations specify criteria to which the Secretary of State must have regard in considering a relevant proposal.
- (3) For the purposes of this section, a “relevant proposal” is a proposal—
 - (a) for the exercise of the Secretary of State's powers in sections 15 and 17 in relation to the permitted authority, and
 - (b) that is accompanied by such information and evidence as the Secretary of State may specify by regulations.
- (4) Before making regulations under this section, the Secretary of State must consult such persons as the Secretary of State considers appropriate.

Commencement Information

I22 S. 18 in force at 15.1.2012 by [S.I. 2012/57](#), [art. 4\(1\)\(a\)](#) (with [arts. 6, 7](#), [arts. 9-11](#))

19 Orders under section 15: procedure E+W

- (1) Before making an order under section 15, the Secretary of State must lay a draft of the instrument containing the order (the “draft order”) before each House of Parliament.
- (2) The Secretary of State must have regard to—
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft order,
 made during the 60-day period with regard to the draft order.
- (3) If, after the expiry of the 60-day period, the Secretary of State wishes to make an order in the terms of the draft order, the Secretary of State must lay before Parliament a statement—
 - (a) stating whether any representations were made under subsection (2)(a), and
 - (b) if any representations were so made, giving details of them.
- (4) The Secretary of State may after the laying of such a statement make an order in the terms of the draft order if it is approved by a resolution of each House of Parliament.
- (5) However, a committee of either House charged with reporting on the draft order may, at any time after the laying of the statement under subsection (3) and before the draft order is approved by that House under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.
- (6) Where a recommendation is made by a committee of either House under subsection (5) in relation to a draft order, no proceedings may be taken in relation to the draft order in that House under subsection (4) unless the recommendation is, in the same Session, rejected by a resolution of that House.
- (7) If, after the expiry of the 60-day period, the Secretary of State wishes to make an order consisting of a version of the draft order with material changes, the Secretary of State must lay before Parliament—
 - (a) a revised draft order, and
 - (b) a statement giving details of—

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- (i) any representations made under subsection (2)(a), and
 - (ii) the revisions proposed.
- (8) The Secretary of State may after laying a revised draft order and statement under subsection (7) make an order in the terms of the revised draft order if it is approved by a resolution of each House of Parliament.
- (9) However, a committee of either House charged with reporting on the revised draft order may, at any time after the revised draft order is laid under subsection (7) and before it is approved by that House under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.
- (10) Where a recommendation is made by a committee of either House under subsection (9) in relation to a revised draft order, no proceedings may be taken in relation to the revised draft order in that House under subsection (8) unless the recommendation is, in the same Session, rejected by resolution of that House.
- (11) For the purposes of subsections (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.
- (12) If a draft of an instrument containing an order under section 15 would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.
- (13) In this section, the “60-day period” means the period of 60 days beginning with the day on which the draft order was laid before Parliament.
- (14) In calculating the period mentioned in subsection (13), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which either House is adjourned for more than four days.

Commencement Information

I23 S. 19 in force at 3.12.2011 by S.I. 2011/2896, art. 2(c)

20 Interpretation of Chapter **E+W**

In this Chapter—

“enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975;

“local public function”, in relation to a permitted authority, means a public function in so far as it relates to—

- (a) the permitted authority's area, or
- (b) persons living, working or carrying on activities in that area;

“permitted authority” means—

- (a) a county council in England,
- (b) a district council,
- (c) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, or

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- (d) a combined authority established under section 103 of that Act;
 “public authority” includes a Minister of the Crown or a government department;
 “public function” means a function of a public authority that does not consist of a power to make regulations or other instruments of a legislative character.

Commencement Information

- I24** S. 20 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(d)**
I25 S. 20 in force at 15.1.2012 in so far as not already in force by S.I. 2012/57, **art. 4(1)(a)** (with arts. 6, 7, arts. 9-11)

CHAPTER 5 **E+W**

GOVERNANCE

21 **New arrangements with respect to governance of English local authorities** **E** **+W**

Schedule 2 (new Part 1A of, including Schedule A1 to, the Local Government Act 2000) has effect.

Commencement Information

- I26** S. 21 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(e)**
I27 S. 21 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(b)** (with arts. 6, 7, arts. 9-11)

22 **New local authority governance arrangements: amendments** **E+W**

Schedule 3 (minor and consequential amendments relating to local authority governance in England) has effect.

Commencement Information

- I28** S. 22 in force at 3.12.2011 for specified purposes by S.I. 2011/2896, **art. 2(h)**
I29 S. 22 in force at 15.1.2012 for specified purposes by S.I. 2012/57, **art. 4(1)(c)** (with arts. 6, 7, arts. 9-11)

23 **Changes to local authority governance in England: transitional provision etc** **E** **+W**

- (1) The Secretary of State may by order make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of sections 21 and 22 and Schedules 2 and 3.
- (2) An order under subsection (1) may, in particular, include any provision—
 - (a) relating to local authorities—

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- (i) ceasing to operate executive arrangements or alternative arrangements under Part 2 of the Local Government Act 2000, and
 - (ii) starting to operate executive arrangements or a committee system under Part 1A of that Act,
 - (b) as to whether, and how, anything done, or in the process of being done, under any provision of Part 2 of that Act is to be deemed to have been done, or be in the process of being done, under any provision of Part 1A of that Act (whether generally or for specified purposes), or
 - (c) modifying the application of any provision of Chapter 4 of Part 1A of that Act in relation to a change in governance arrangements by a local authority within a specified period.
- (3) The reference in subsection (2)(b) to things done includes a reference to things omitted to be done.
- (4) In this section—
- “change in governance arrangements” has the meaning given by section 90A of the Local Government Act 2000;
 - “local authority” means a county council in England, a district council or a London borough council;
 - “specified” means specified in an order under this section.

24 Timetables for changing English district councils' electoral schemes E+W

- (1) The Local Government and Public Involvement in Health Act 2007 is amended as follows.
- (2) Omit the following provisions (which provide that councils may pass resolutions to change their electoral schemes only in certain permitted periods)—
- (a) section 33(4), (6) and (7) (district councils changing to whole-council elections),
 - (b) section 38(4), (6) and (7) (non-metropolitan district councils reverting to elections by halves), and
 - (c) section 40(4), (6) and (7) (district councils reverting to elections by thirds).
- (3) In section 33 (resolution for whole-council elections: requirements) after subsection (3) insert—
- “(3A) The resolution must specify the year for the first ordinary elections of the council at which all councillors are to be elected.
 - (3B) In the case of a district council for a district in a county for which there is a county council, the year specified under subsection (3A) may not be a county-council-elections year; and here “county-council-elections year” means 2013 and every fourth year afterwards.”
- (4) In section 34(2) (years in which whole-council elections to a district council are to be held if scheme under section 34 applies) for paragraphs (a) and (b) substitute—
- “(a) the year specified under section 33(3A) in the resolution, and
 - (b) every fourth year afterwards.”
- (5) In section 34 (scheme for whole-council elections) after subsection (4) insert—

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“(4A) Ordinary elections of councillors of the council under the previous electoral scheme are to be held in accordance with that scheme in any year that—

- (a) is earlier than the year specified under section 33(3A) in the resolution for whole-council elections, and
- (b) is a year in which, under the previous electoral scheme, ordinary elections of councillors of the council are due to be held.

(4B) In subsection (4A) “the previous electoral scheme” means the scheme for the ordinary elections of councillors of the council that applied to it immediately before it passed the resolution for whole-council elections.”

(6) After section 31 insert—

“31A Minimum period between resolutions to change electoral schemes

If a council passes a resolution under section 32, 37 or 39 (“the earlier resolution”) it may not pass another resolution under any of those sections before the end of five years beginning with the day on which the earlier resolution is passed.”

(7) In section 57 of the Local Democracy, Economic Development and Construction Act 2009 (requests for review of single-member electoral areas by councils subject to a scheme for whole-council elections) after subsection (4) (meaning of “subject to a scheme for whole-council elections”) insert—

“(4A) A district council is also “subject to a scheme for whole-council elections” for those purposes if—

- (a) section 34 of the Local Government and Public Involvement in Health Act 2007 (scheme for whole-council elections) applies to the council, but
- (b) by virtue of subsection (4A) of that section (temporary continuation of previous electoral scheme), not all the members of the council are to be elected in a year in which ordinary elections of members of the council are to be held.”

Commencement Information

I30 S. 24 in force at 15.1.2012 by S.I. 2012/57, art. 4(1)(d) (with arts. 6, 7, arts. 9-11)

CHAPTER 6 E+W

PREDETERMINATION

25 Prior indications of view of a matter not to amount to predetermination etc E+W

(1) Subsection (2) applies if—

- (a) as a result of an allegation of bias or predetermination, or otherwise, there is an issue about the validity of a decision of a relevant authority, and

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- (b) it is relevant to that issue whether the decision-maker, or any of the decision-makers, had or appeared to have had a closed mind (to any extent) when making the decision.
- (2) A decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—
 - (a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and
 - (b) the matter was relevant to the decision.
- (3) Subsection (2) applies in relation to a decision-maker only if that decision-maker—
 - (a) is a member (whether elected or not) of the relevant authority, or
 - (b) is a co-opted member of that authority.
- (4) In this section—

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who—

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of the committee or sub-committee;

“decision”, in relation to a relevant authority, means a decision made in discharging functions of the authority, functions of the authority's executive, functions of a committee of the authority or functions of an officer of the authority (including decisions made in the discharge of any of those functions otherwise than by the person to whom the function was originally given);

“elected mayor” has the meaning given by section 9H or 39 of the Local Government Act 2000;

“member”—

- (a) in relation to the Greater London Authority, means the Mayor of London or a London Assembly member, and
- (b) in relation to a county council, district council, county borough council or London borough council, includes an elected mayor of the council;

“relevant authority” means—

- (a) a county council,
- (b) a district council,
- (c) a county borough council,
- (d) a London borough council,
- (e) the Common Council of the City of London,
- (f) the Greater London Authority,
- (g) a National Park authority,
- (h) the Broads Authority,
- (i) the Council of the Isles of Scilly,
- (j) a parish council, or
- (k) a community council.

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- (5) This section applies only to decisions made after this section comes into force, but the reference in subsection (2)(a) to anything previously done includes things done before this section comes into force.

CHAPTER 7 **E+W**

STANDARDS

26 Amendments of existing provisions **E+W**

Schedule 4 (which amends the existing provisions relating to the conduct of local government members and employees in England and makes related provision) has effect.

Commencement Information

I31 S.26 in force for specified purposes at Royal Assent see s. 240(5)(b)

I32 S. 26 in force at 31.1.2012 for specified purposes by [S.I. 2012/57](#), [art. 5\(1\)\(a\)](#) (with [arts. 6, 8](#))

VALID FROM 07/06/2012

27 Duty to promote and maintain high standards of conduct **E+W**

- (1) A relevant authority must promote and maintain high standards of conduct by members and co-opted members of the authority.
- (2) In discharging its duty under subsection (1), a relevant authority must, in particular, adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.
- (3) A relevant authority that is a parish council—
 - (a) may comply with subsection (2) by adopting the code adopted under that subsection by its principal authority, where relevant on the basis that references in that code to its principal authority's register are to its register, and
 - (b) may for that purpose assume that its principal authority has complied with section 28(1) and (2).
- (4) In this Chapter “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who—
 - (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
 and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- (5) A reference in this Chapter to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

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- (6) In this Chapter “relevant authority” means—
- (a) a county council in England,
 - (b) a district council,
 - (c) a London borough council,
 - (d) a parish council,
 - (e) the Greater London Authority,
 - ^{F1}(f)
 - (g) the London Fire and Emergency Planning Authority,
 - (h) the Common Council of the City of London in its capacity as a local authority or police authority,
 - (i) the Council of the Isles of Scilly,
 - (j) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
 - (k) a police authority (in England or in Wales) established under section 3 of the Police Act 1996,
 - (l) a joint authority established by Part 4 of the Local Government Act 1985,
 - (m) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,
 - (n) a combined authority established under section 103 of that Act,
 - (o) the Broads Authority, or
 - (p) a National Park authority in England established under section 63 of the Environment Act 1995.
- (7) Any reference in this Chapter to a member of a relevant authority—
- (a) in the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies, includes a reference to an elected mayor;
 - (b) in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.
- (8) Functions that are conferred by this Chapter on a relevant authority to which Part 1A of the Local Government Act 2000 applies are not to be the responsibility of an executive of the authority under executive arrangements.
- (9) Functions that are conferred by this Chapter on the Greater London Authority are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (10) In this Chapter except section 35—
- (a) a reference to a committee or sub-committee of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to—
 - (i) a committee or sub-committee of the London Assembly, or
 - (ii) the standards committee, or a sub-committee of that committee, established under that section,
 - (b) a reference to a joint committee on which a relevant authority is represented is, where the relevant authority is the Greater London Authority, a reference to a joint committee on which the Authority, the London Assembly or the Mayor of London is represented,

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- (c) a reference to becoming a member of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to becoming the Mayor of London or a member of the London Assembly, and
- (d) a reference to a meeting of a relevant authority is, where the relevant authority is the Greater London Authority, a reference to a meeting of the London Assembly;

and in subsection (4)(b) the reference to representing the relevant authority is, where the relevant authority is the Greater London Authority, a reference to representing the Authority, the London Assembly or the Mayor of London.

Textual Amendments

- F1** S. 27(6)(f) repealed (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), ss. 36(a), 240(2), [Sch. 25 Pts. 5](#); [S.I. 2012/57](#), art. 4(1)(e) (with [arts. 67](#)[arts. 9-11](#))

VALID FROM 07/06/2012

28 Codes of conduct **E+W**

- (1) A relevant authority must secure that a code adopted by it under section 27(2) (a “code of conduct”) is, when viewed as a whole, consistent with the following principles—
 - (a) selflessness;
 - (b) integrity;
 - (c) objectivity;
 - (d) accountability;
 - (e) openness;
 - (f) honesty;
 - (g) leadership.
- (2) A relevant authority must secure that its code of conduct includes the provision the authority considers appropriate in respect of the registration in its register, and disclosure, of—
 - (a) pecuniary interests, and
 - (b) interests other than pecuniary interests.
- (3) Sections 29 to 34 do not limit what may be included in a relevant authority's code of conduct, but nothing in a relevant authority's code of conduct prejudices the operation of those sections.
- (4) A failure to comply with a relevant authority's code of conduct is not to be dealt with otherwise than in accordance with arrangements made under subsection (6); in particular, a decision is not invalidated just because something that occurred in the process of making the decision involved a failure to comply with the code.
- (5) A relevant authority may—
 - (a) revise its existing code of conduct, or
 - (b) adopt a code of conduct to replace its existing code of conduct.

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- (6) A relevant authority other than a parish council must have in place—
- (a) arrangements under which allegations can be investigated, and
 - (b) arrangements under which decisions on allegations can be made.
- (7) Arrangements put in place under subsection (6)(b) by a relevant authority must include provision for the appointment by the authority of at least one independent person—
- (a) whose views are to be sought, and taken into account, by the authority before it makes its decision on an allegation that it has decided to investigate, and
 - (b) whose views may be sought—
 - (i) by the authority in relation to an allegation in circumstances not within paragraph (a),
 - (ii) by a member, or co-opted member, of the authority if that person's behaviour is the subject of an allegation, and
 - (iii) by a member, or co-opted member, of a parish council if that person's behaviour is the subject of an allegation and the authority is the parish council's principal authority.
- (8) For the purposes of subsection (7)—
- (a) a person is not independent if the person is—
 - (i) a member, co-opted member or officer of the authority,
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority, or
 - (iii) a relative, or close friend, of a person within sub-paragraph (i) or (ii);
 - (b) a person may not be appointed under the provision required by subsection (7) if at any time during the 5 years ending with the appointment the person was—
 - (i) a member, co-opted member or officer of the authority, or
 - (ii) a member, co-opted member or officer of a parish council of which the authority is the principal authority;
 - (c) a person may not be appointed under the provision required by subsection (7) unless—
 - (i) the vacancy for an independent person has been advertised in such manner as the authority considers is likely to bring it to the attention of the public,
 - (ii) the person has submitted an application to fill the vacancy to the authority, and
 - (iii) the person's appointment has been approved by a majority of the members of the authority;
 - (d) a person appointed under the provision required by subsection (7) does not cease to be independent as a result of being paid any amounts by way of allowances or expenses in connection with performing the duties of the appointment.
- (9) In subsections (6) and (7) “allegation”, in relation to a relevant authority, means a written allegation—
- (a) that a member or co-opted member of the authority has failed to comply with the authority's code of conduct, or

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- (b) that a member or co-opted member of a parish council for which the authority is the principal authority has failed to comply with the parish council's code of conduct.
- (10) For the purposes of subsection (8) a person (“R”) is a relative of another person if R is—
- (a) the other person's spouse or civil partner,
 - (b) living with the other person as husband and wife or as if they were civil partners,
 - (c) a grandparent of the other person,
 - (d) a lineal descendant of a grandparent of the other person,
 - (e) a parent, sibling or child of a person within paragraph (a) or (b),
 - (f) the spouse or civil partner of a person within paragraph (c), (d) or (e), or
 - (g) living with a person within paragraph (c), (d) or (e) as husband and wife or as if they were civil partners.
- (11) If a relevant authority finds that a member or co-opted member of the authority has failed to comply with its code of conduct (whether or not the finding is made following an investigation under arrangements put in place under subsection (6)) it may have regard to the failure in deciding—
- (a) whether to take action in relation to the member or co-opted member, and
 - (b) what action to take.
- (12) A relevant authority must publicise its adoption, revision or replacement of a code of conduct in such manner as it considers is likely to bring the adoption, revision or replacement of the code of conduct to the attention of persons who live in its area.
- (13) A relevant authority's function of adopting, revising or replacing a code of conduct may be discharged only by the authority.
- (14) Accordingly—
- (a) in the case of an authority to whom section 101 of the Local Government Act 1972 (arrangements for discharge of functions) applies, the function is not a function to which that section applies;
 - (b) in the case of the Greater London Authority, the function is not a function to which section 35 (delegation of functions by the Greater London Authority) applies.

VALID FROM 07/06/2012

29 Register of interests **E+W**

- (1) The monitoring officer of a relevant authority must establish and maintain a register of interests of members and co-opted members of the authority.
- (2) Subject to the provisions of this Chapter, it is for a relevant authority to determine what is to be entered in the authority's register.
- (3) Nothing in this Chapter requires an entry to be retained in a relevant authority's register once the person concerned—
 - (a) no longer has the interest, or

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- (b) is (otherwise than transitorily on re-election or re-appointment) neither a member nor a co-opted member of the authority.
- (4) In the case of a relevant authority that is a parish council, references in this Chapter to the authority's monitoring officer are to the monitoring officer of the parish council's principal authority.
- (5) The monitoring officer of a relevant authority other than a parish council must secure—
 - (a) that a copy of the authority's register is available for inspection at a place in the authority's area at all reasonable hours, and
 - (b) that the register is published on the authority's website.
- (6) The monitoring officer of a relevant authority that is a parish council must—
 - (a) secure that a copy of the parish council's register is available for inspection at a place in the principal authority's area at all reasonable hours,
 - (b) secure that the register is published on the principal authority's website, and
 - (c) provide the parish council with any data it needs to comply with subsection (7).
- (7) A parish council must, if it has a website, secure that its register is published on its website.
- (8) Subsections (5) to (7) are subject to section 32(2).
- (9) In this Chapter “principal authority”, in relation to a parish council, means—
 - (a) in the case of a parish council for an area in a district that has a district council, that district council,
 - (b) in the case of a parish council for an area in a London borough, the council of that London borough, and
 - (c) in the case of a parish council for any other area, the county council for the county that includes that area.
- (10) In this Chapter “register”, in relation to a relevant authority, means its register under subsection (1).

30 Disclosure of pecuniary interests on taking office **E+W**

- (1) A member or co-opted member of a relevant authority must, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority, notify the authority's monitoring officer of any disclosable pecuniary interests which the person has at the time when the notification is given.
- (2) Where a person becomes a member or co-opted member of a relevant authority as a result of re-election or re-appointment, subsection (1) applies only as regards disclosable pecuniary interests not entered in the authority's register when the notification is given.
- (3) For the purposes of this Chapter, a pecuniary interest is a “disclosable pecuniary interest” in relation to a person (“M”) if it is of a description specified in regulations made by the Secretary of State and either—
 - (a) it is an interest of M's, or
 - (b) it is an interest of—

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- (i) M's spouse or civil partner,
 - (ii) a person with whom M is living as husband and wife, or
 - (iii) a person with whom M is living as if they were civil partners,
- and M is aware that that other person has the interest.
- (4) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (1), the authority's monitoring officer is to cause the interests notified to be entered in the authority's register (whether or not they are disclosable pecuniary interests).

Commencement Information

I33 S. 30 in force at 31.1.2012 for specified purposes by [S.I. 2012/57](#), [art. 5\(1\)\(b\)](#) (with [arts. 6, 8](#))

VALID FROM 07/06/2012

31 Pecuniary interests in matters considered at meetings or by a single member **E+W**

- (1) Subsections (2) to (4) apply if a member or co-opted member of a relevant authority—
- (a) is present at a meeting of the authority or of any committee, sub-committee, joint committee or joint sub-committee of the authority,
 - (b) has a disclosable pecuniary interest in any matter to be considered, or being considered, at the meeting, and
 - (c) is aware that the condition in paragraph (b) is met.
- (2) If the interest is not entered in the authority's register, the member or co-opted member must disclose the interest to the meeting, but this is subject to section 32(3).
- (3) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member or co-opted member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date of the disclosure.
- (4) The member or co-opted member may not—
- (a) participate, or participate further, in any discussion of the matter at the meeting, or
 - (b) participate in any vote, or further vote, taken on the matter at the meeting, but this is subject to section 33.
- (5) In the case of a relevant authority to which Part 1A of the Local Government Act 2000 applies and which is operating executive arrangements, the reference in subsection (1)(a) to a committee of the authority includes a reference to the authority's executive and a reference to a committee of the executive.
- (6) Subsections (7) and (8) apply if—
- (a) a function of a relevant authority may be discharged by a member of the authority acting alone,

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- (b) the member has a disclosable pecuniary interest in any matter to be dealt with, or being dealt with, by the member in the course of discharging that function, and
 - (c) the member is aware that the condition in paragraph (b) is met.
- (7) If the interest is not entered in the authority's register and is not the subject of a pending notification, the member must notify the authority's monitoring officer of the interest before the end of 28 days beginning with the date when the member becomes aware that the condition in subsection (6)(b) is met in relation to the matter.
- (8) The member must not take any steps, or any further steps, in relation to the matter (except for the purpose of enabling the matter to be dealt with otherwise than by the member).
- (9) Where a member or co-opted member of a relevant authority gives a notification for the purposes of subsection (3) or (7), the authority's monitoring officer is to cause the interest notified to be entered in the authority's register (whether or not it is a disclosable pecuniary interest).
- (10) Standing orders of a relevant authority may provide for the exclusion of a member or co-opted member of the authority from a meeting while any discussion or vote takes place in which, as a result of the operation of subsection (4), the member or co-opted member may not participate.
- (11) For the purpose of this section, an interest is “subject to a pending notification” if—
 - (a) under this section or section 30, the interest has been notified to a relevant authority's monitoring officer, but
 - (b) has not been entered in the authority's register in consequence of that notification.

VALID FROM 01/07/2012

32 Sensitive interests **E+W**

- (1) Subsections (2) and (3) apply where—
 - (a) a member or co-opted member of a relevant authority has an interest (whether or not a disclosable pecuniary interest), and
 - (b) the nature of the interest is such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.
- (2) If the interest is entered in the authority's register, copies of the register that are made available for inspection, and any published version of the register, must not include details of the interest (but may state that the member or co-opted member has an interest the details of which are withheld under this subsection).
- (3) If section 31(2) applies in relation to the interest, that provision is to be read as requiring the member or co-opted member to disclose not the interest but merely the fact that the member or co-opted member has a disclosable pecuniary interest in the matter concerned.

Status: Point in time view as at 18/02/2012. This version of this part contains provisions that are not valid for this point in time.

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VALID FROM 07/06/2012

33 Dispensations from section 31(4) **E+W**

- (1) A relevant authority may, on a written request made to the proper officer of the authority by a member or co-opted member of the authority, grant a dispensation relieving the member or co-opted member from either or both of the restrictions in section 31(4) in cases described in the dispensation.
- (2) A relevant authority may grant a dispensation under this section only if, after having had regard to all relevant circumstances, the authority—
 - (a) considers that without the dispensation the number of persons prohibited by section 31(4) from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business,
 - (b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business,
 - (c) considers that granting the dispensation is in the interests of persons living in the authority's area,
 - (d) if it is an authority to which Part 1A of the Local Government Act 2000 applies and is operating executive arrangements, considers that without the dispensation each member of the authority's executive would be prohibited by section 31(4) from participating in any particular business to be transacted by the authority's executive, or
 - (e) considers that it is otherwise appropriate to grant a dispensation.
- (3) A dispensation under this section must specify the period for which it has effect, and the period specified may not exceed four years.
- (4) Section 31(4) does not apply in relation to anything done for the purpose of deciding whether to grant a dispensation under this section.

VALID FROM 01/07/2012

34 Offences **E+W**

- (1) A person commits an offence if, without reasonable excuse, the person—
 - (a) fails to comply with an obligation imposed on the person by section 30(1) or 31(2), (3) or (7),
 - (b) participates in any discussion or vote in contravention of section 31(4), or
 - (c) takes any steps in contravention of section 31(8).
- (2) A person commits an offence if under section 30(1) or 31(2), (3) or (7) the person provides information that is false or misleading and the person—
 - (a) knows that the information is false or misleading, or
 - (b) is reckless as to whether the information is true and not misleading.
- (3) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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- (4) A court dealing with a person for an offence under this section may (in addition to any other power exercisable in the person's case) by order disqualify the person, for a period not exceeding five years, for being or becoming (by election or otherwise) a member or co-opted member of the relevant authority in question or any other relevant authority.
- (5) A prosecution for an offence under this section is not to be instituted except by or on behalf of the Director of Public Prosecutions.
- (6) Proceedings for an offence under this section may be brought within a period of 12 months beginning with the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor's knowledge.
- (7) But no such proceedings may be brought more than three years—
 - (a) after the commission of the offence, or
 - (b) in the case of a continuous contravention, after the last date on which the offence was committed.
- (8) A certificate signed by the prosecutor and stating the date on which such evidence came to the prosecutor's knowledge is conclusive evidence of that fact; and a certificate to that effect and purporting to be so signed is to be treated as being so signed unless the contrary is proved.
- (9) The Local Government Act 1972 is amended as follows.
- (10) In section 86(1)(b) (authority to declare vacancy where member becomes disqualified otherwise than in certain cases) after “ 2000 ” insert “ or section 34 of the Localism Act 2011 ”.
- (11) In section 87(1)(ee) (date of casual vacancies)—
 - (a) after “2000” insert “ or section 34 of the Localism Act 2011 or ”, and
 - (b) after “decision” insert “ or order ”.
- (12) The Greater London Authority Act 1999 is amended as follows.
- (13) In each of sections 7(b) and 14(b) (Authority to declare vacancy where Assembly member or Mayor becomes disqualified otherwise than in certain cases) after subparagraph (i) insert—

“(ia) under section 34 of the Localism Act 2011,”.
- (14) In section 9(1)(f) (date of casual vacancies)—
 - (a) before “or by virtue of” insert “ or section 34 of the Localism Act 2011 ”, and
 - (b) after “that Act” insert “ of 1998 or that section ”.

VALID FROM 07/06/2012

35 Delegation of functions by Greater London Authority **E+W**

- (1) The Mayor of London and the London Assembly, acting jointly, may arrange for any of the functions conferred on them by or under this Chapter to be exercised on their behalf by—
 - (a) a member of staff of the Greater London Authority, or

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- (b) a committee appointed in accordance with provision made by virtue of this section.
- (2) Standing orders of the Greater London Authority may make provision regulating the exercise of functions by any member of staff of the Authority pursuant to arrangements under subsection (1).
- (3) Standing orders of the Greater London Authority may make provision for the appointment of a committee (“the standards committee”) to exercise functions conferred on the Mayor of London and the London Assembly by or under this Chapter in accordance with arrangements under subsection (1).
- (4) Standing orders of the Greater London Authority may make provision about the membership and procedure of the standards committee.
- (5) The provision that may be made under subsection (4) includes—
- (a) provision for the standards committee to arrange for the discharge of its functions by a sub-committee of that committee;
 - (b) provision about the membership and procedure of such a sub-committee.
- (6) Subject to subsection (7), the standards committee and any sub-committee of that committee—
- (a) is not to be treated as a committee or (as the case may be) sub-committee of the London Assembly for the purposes of the Greater London Authority Act 1999, but
 - (b) is a committee or (as the case may be) sub-committee of the Greater London Authority for the purposes of Part 3 of the Local Government Act 1974 (investigations by Commission for Local Administration in England).
- (7) Sections 6(3)(a) (failure to attend meetings) and 73(6) (functions of monitoring officer) of the Greater London Authority Act 1999 apply to the standards committee or any sub-committee of that committee as they apply to a committee of the London Assembly or any sub-committee of such a committee.
- (8) Part 5A of the Local Government Act 1972 (access to meetings and documents) applies to the standards committee or any sub-committee of that committee as if—
- (a) it were a committee or (as the case may be) a sub-committee of a principal council within the meaning of that Part, and
 - (b) the Greater London Authority were a principal council in relation to that committee or sub-committee.
- (9) Arrangements under this section for the exercise of any function by—
- (a) a member of staff of the Greater London Authority, or
 - (b) the standards committee,
- do not prevent the Mayor of London and the London Assembly from exercising those functions.
- (10) References in this section to the functions of the Mayor of London and the London Assembly conferred by or under this Chapter do not include their functions under this section.
- (11) In this section “member of staff of the Greater London Authority” has the same meaning as in the Greater London Authority Act 1999 (see section 424(1) of that Act).

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36 Amendment of section 27 following abolition of police authorities **E+W**

In section 27(6) (which defines “relevant authority” for the purposes of this Chapter) omit—

- (a) paragraph (f) (the Metropolitan Police Authority), and
- (b) paragraph (k) (police authorities).

Commencement Information

I34 S. 36 in force at 15.1.2012 for specified purposes by S.I. 2012/57, art. 4(1)(e) (with arts. 6, 7, arts. 9-11)

37 Transitional provision **E+W**

- (1) An order under section 240(2) may, in particular, provide for any provision made by or under Part 3 of the Local Government Act 2000 to have effect with modifications in consequence of any partial commencement of any of the amendments to, or repeals of, provisions of that Part made by Schedule 4.
- (2) An order under section 240(2) may, in particular, make provision for an allegation or a case that is being investigated under Part 3 of the Local Government Act 2000 by the Standards Board for England or an ethical standards officer—
 - (a) to be referred to an authority of a kind specified in or determined in accordance with the order;
 - (b) to be dealt with in accordance with provision made by the order.
- (3) The provision that may be made by virtue of subsection (2)(b) includes—
 - (a) provision corresponding to any provision made by or under Part 3 of the Local Government Act 2000;
 - (b) provision applying any provision made by or under that Part with or without modifications.

CHAPTER 8 **E+W**

PAY ACCOUNTABILITY

38 Pay policy statements **E+W**

- (1) A relevant authority must prepare a pay policy statement for the financial year 2012-2013 and each subsequent financial year.
- (2) A pay policy statement for a financial year must set out the authority's policies for the financial year relating to—
 - (a) the remuneration of its chief officers,
 - (b) the remuneration of its lowest-paid employees, and
 - (c) the relationship between—
 - (i) the remuneration of its chief officers, and
 - (ii) the remuneration of its employees who are not chief officers.
- (3) The statement must state—

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- (a) the definition of “lowest-paid employees” adopted by the authority for the purposes of the statement, and
 - (b) the authority's reasons for adopting that definition.
- (4) The statement must include the authority's policies relating to—
- (a) the level and elements of remuneration for each chief officer,
 - (b) remuneration of chief officers on recruitment,
 - (c) increases and additions to remuneration for each chief officer,
 - (d) the use of performance-related pay for chief officers,
 - (e) the use of bonuses for chief officers,
 - (f) the approach to the payment of chief officers on their ceasing to hold office under or to be employed by the authority, and
 - (g) the publication of and access to information relating to remuneration of chief officers.
- (5) A pay policy statement for a financial year may also set out the authority's policies for the financial year relating to the other terms and conditions applying to the authority's chief officers.

Commencement Information

I35 S. 38 in force at 15.1.2012 for E. see s. 240(1)(b)

I36 S. 38 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

39 Supplementary provisions relating to statements **E+W**

- (1) A relevant authority's pay policy statement must be approved by a resolution of the authority before it comes into force.
- (2) The first statement must be prepared and approved before the end of 31 March 2012.
- (3) Each subsequent statement must be prepared and approved before the end of the 31 March immediately preceding the financial year to which it relates.
- (4) A relevant authority may by resolution amend its pay policy statement (including after the beginning of the financial year to which it relates).
- (5) As soon as is reasonably practicable after approving or amending a pay policy statement, the authority must publish the statement or the amended statement in such manner as it thinks fit (which must include publication on the authority's website).

Commencement Information

I37 S. 39 in force at 15.1.2012 for E., see s. 240(1)(b)

I38 S. 39 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

40 Guidance **E+W**

- (1) A relevant authority in England must, in performing its functions under section 38 or 39, have regard to any guidance issued or approved by the Secretary of State.

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- (2) A relevant authority in Wales must, in performing its functions under section 38 or 39, have regard to any guidance issued or approved by the Welsh Ministers.

Commencement Information

- I39** S. 40 in force for E. at 15.1.2012 see s. 240(1)(b)
I40 S. 40 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

41 Determinations relating to remuneration etc **E+W**

- (1) This section applies to a determination that—
- (a) is made by a relevant authority in a financial year beginning on or after 1 April 2012 and
 - (b) relates to the remuneration of or other terms and conditions applying to a chief officer of the authority.
- (2) The relevant authority must comply with its pay policy statement for the financial year in making the determination.
- (3) Any power of a fire and rescue authority within section 43(1)(i) to appoint officers and employees is subject to the requirement in subsection (2).
- (4) In section 112 of the Local Government Act 1972 (appointment of staff) after subsection (2) insert—
- “(2A) A local authority's power to appoint officers on such reasonable terms and conditions as the authority thinks fit is subject to section 41 of the Localism Act 2011 (requirement for determinations relating to terms and conditions of chief officers to comply with pay policy statement).”

Commencement Information

- I41** S. 41 in force at 15.1.2012 for E., see s. 240(1)(b)
I42 S. 41 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

42 Exercise of functions **E+W**

- (1) The functions conferred on a relevant authority by this Chapter are not to be the responsibility of an executive of the authority under executive arrangements.
- (2) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of passing a resolution under this Chapter.
- (3) The function of a fire and rescue authority within section 43(1)(i) of passing a resolution under this Chapter may not be delegated by the authority.

Commencement Information

- I43** S. 42 in force at 15.1.2012 for E., see s. 240(1)(b)
I44 S. 42 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

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43 Interpretation **E+W**

- (1) In this Chapter “relevant authority” means—
- (a) a county council,
 - (b) a county borough council,
 - (c) a district council,
 - (d) a London borough council,
 - (e) the Common Council of the City of London in its capacity as a local authority,
 - (f) the Council of the Isles of Scilly,
 - (g) the London Fire and Emergency Planning Authority,
 - (h) a metropolitan county fire and rescue authority, or
 - (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.
- (2) In this Chapter “chief officer”, in relation to a relevant authority, means each of the following—
- (a) the head of its paid service designated under section 4(1) of the Local Government and Housing Act 1989;
 - (b) its monitoring officer designated under section 5(1) of that Act;
 - (c) a statutory chief officer mentioned in section 2(6) of that Act;
 - (d) a non-statutory chief officer mentioned in section 2(7) of that Act;
 - (e) a deputy chief officer mentioned in section 2(8) of that Act.
- (3) In this Chapter “remuneration”, in relation to a chief officer and a relevant authority, means—
- (a) the chief officer's salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the chief officer for those services,
 - (b) any bonuses payable by the authority to the chief officer,
 - (c) any charges, fees or allowances payable by the authority to the chief officer,
 - (d) any benefits in kind to which the chief officer is entitled as a result of the chief officer's office or employment,
 - (e) any increase in or enhancement of the chief officer's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and
 - (f) any amounts payable by the authority to the chief officer on the chief officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.
- (4) In this Chapter “terms and conditions”, in relation to a chief officer and a relevant authority, means the terms and conditions on which the chief officer holds office under or is employed by the authority.
- (5) References in this Chapter to the remuneration of, or the other terms and conditions applying to, a chief officer include—
- (a) the remuneration that may be provided to, or the terms and conditions that may apply to, that chief officer in the future, and
 - (b) the remuneration that is to be provided to, or the terms and conditions that are to apply to, chief officers of that kind that the authority may appoint in the future.

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- (6) In this Chapter “remuneration”, in relation to a relevant authority and an employee of its who is not a chief officer, means—
- (a) the employee's salary,
 - (b) any bonuses payable by the authority to the employee,
 - (c) any allowances payable by the authority to the employee,
 - (d) any benefits in kind to which the employee is entitled as a result of the employee's employment,
 - (e) any increase in or enhancement of the employee's pension entitlement where the increase or enhancement is as a result of a resolution of the authority, and
 - (f) any amounts payable by the authority to the employee on the employee ceasing to be employed by the authority, other than any amounts that may be payable by virtue of any enactment.
- (7) References in this Chapter to the remuneration of an employee who is not a chief officer include—
- (a) the remuneration that may be provided to that employee in the future, and
 - (b) the remuneration that is to be provided to employees of the same kind that the authority may employ in the future.
- (8) In this Chapter—
- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
 - “financial year” means the period of 12 months ending with 31 March in any year.

Commencement Information

I45 S. 43 in force for E. at 15.1.2012 see [s. 240\(1\)\(b\)](#)

I46 S. 43 in force at 31.1.2012 for W. by [S.I. 2012/193](#), [art. 2\(a\)](#)

CHAPTER 9 **E+W**

COMMISSION FOR LOCAL ADMINISTRATION IN ENGLAND

44 Arrangements for provision of services and discharge of functions **E+W**

- (1) After section 33ZA of the Local Government Act 1974 insert—

“33ZB Arrangements for provision of administrative and other services

- (1) Arrangements involving the Commission may be entered into by persons within subsection (4) for the provision of administrative, professional or technical services by any one or more of the parties for any one or more of the parties, whether for consideration or otherwise.
- (2) For the purposes of subsection (1), arrangements for the provision of services involve the Commission if the Commission is one of the parties to the arrangements and at least one of the following conditions is met—

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- (a) the Commission is the party, or one of the parties, by whom the services are to be provided;
 - (b) the Commission is the party, or one of the parties, to whom the services are to be provided.
- (3) The arrangements that may be entered into under subsection (1) include arrangements for—
- (a) the Commission, or
 - (b) the Commission jointly with any one or more of the parties,
- to have the function of discharging, on behalf of a party, any function of that party which is of an administrative, professional or technical nature.
- (4) The persons within this subsection are—
- (a) the Commission,
 - (b) the Parliamentary Commissioner,
 - (c) the Health Service Commissioner for England, and
 - (d) the person administering a scheme approved under Schedule 2 to the Housing Act 1996 (scheme for enabling complaints to be investigated by a housing ombudsman).”
- (2) In paragraph 13 of Schedule 4 to the Local Government Act 1974 (delegation by Local Commissioners) after sub-paragraph (2) insert—
- “(3) Any function of the Commission may be discharged on the Commission's behalf—
- (a) by any person authorised by the Commission to do so, and
 - (b) to the extent so authorised.
- (4) Sub-paragraph (3) does not affect the responsibility of the Commission for the discharge of the function.”

CHAPTER 10 E+W

MISCELLANEOUS REPEALS

45 **Repeal of duties relating to promotion of democracy** E+W

Chapter 1 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (duties relating to promotion of democracy) is repealed.

VALID FROM 01/04/2012

46 **Repeal of provisions about petitions to local authorities** E+W

Chapter 2 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009 (petitions to local authorities) is repealed.

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47 Schemes to encourage domestic waste reduction by payments and charges **E**
+W

The following provisions are repealed—

- (a) section 71(1) of, and Schedule 5 to, the Climate Change Act 2008 (which amend the Environmental Protection Act 1990 to enable waste collection authorities to make waste reduction schemes, but which have never been in force), and
- (b) sections 71(2) and (3) and 72 to 75 of that Act (which provide for the provisions mentioned in paragraph (a) to be piloted and then either brought into force, with or without amendments, or repealed).

Status:

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Changes to legislation:

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