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WELSH STATUTORY INSTRUMENTS

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**2003 No. 3034 (W.282) (C.113)**

**LOCAL GOVERNMENT, WALES**

**The Local Government Act 2003  
(Commencement) (Wales) Order 2003**

*Made - - - - 26th November 2003*

The National Assembly for Wales makes the following Order in exercise of the powers given to it by section 128(4), (6)(b) and (9) of the Local Government Act 2003<sup>(1)</sup>.

**Name and interpretation**

1.—(1) This Order is called the Local Government Act 2003 (Commencement) (Wales) Order 2003.

(2) In this Order “the Act” (“*y Ddeddf*”) means the Local Government Act 2003.

**Provisions coming into force**

2.—(1) The provisions of the Act specified in Part I of Schedule 1 and in Schedule 2 will come into force on 27th November 2003.

(2) The provisions of the Act specified in Part II of Schedule 1 will come into force on 1st April 2004.

(3) Unless otherwise specified in Schedule 1 or Schedule 2 to this Order the provisions referred to in paragraphs (1) and (2) above will come into force for all purposes.

(4) Except to the extent that they are specified in section 128(4)(b) to (g) of the Act, the provisions of the Act brought into force by this Order are brought into force only so far as relating to Wales.

**Transitional provisions and savings**

3. Schedule 2 to this Order has effect for the purposes of making transitional provisions and savings in relation to the provisions to which it refers.

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Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(2).

26th November 2003

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

## SCHEDULE 1

Article 2

### PART I

Provisions coming into force on 27th November 2003 in so far as they relate to Wales

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Sections 1 to 24	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Sections 25 to 28	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Section 36	
Section 37	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Sections 38 to 40	
Sections 41 to 59	
Sections 60 and 61	
Section 62(1) and (3) to (10)	
Sections 66 and 67(1) and (3) to (5)	
Section 70(1) to (3) and (7) to (9)	
Section 71	
Section 75(2) to (5)	
Section 89	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Section 90(1) to (3)	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Section 100(3)	
Section 101	(only so far as relating to a best value authority in Wales, other than one mentioned in subsection (7) of that section)
Section 102	
Section 109(1)	(so far as relating to registered social landlords for which the National Assembly for Wales is the Relevant Authority for the purposes of Part 1 of the Housing Act 1996 (c. 52))
Section 109(2)	

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Section 117	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Sections 118 and 119	
Section 127(3) and (4)	
Schedule 1	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Schedule 2	(only for the purpose of and in relation to financial years beginning on or after 1st April 2004)
Schedule 3	
Schedule 7 and section 127(1) so far as relating to —	paragraphs 2 and 3 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004) paragraph 5 paragraph 6 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004) paragraphs 8, 9(2) and 12 to 17 paragraph 18 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004) paragraphs 19, 22, 23, 24(4), 25(2) and (3), 26(1) and (2) paragraph 29 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004) paragraph 30 paragraphs 32 and 33(3) and (5) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004) paragraphs 49(b), 50(b) and 51(2) paragraph 51(3) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004) paragraph 56 paragraph 57 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

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paragraphs 58, 59, 61 and 62

paragraphs 63 and 64 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 66

paragraph 67 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 79 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

Schedule 8 and section 127(2) so far as relating to —

section 137(4AA) and (4C) of the Local Government Act 1972 (c. 70)

the Stock Transfer Act 1982 (c. 41) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

the Housing Act 1985 (c. 68)

section 33 of the Local Government Act 1988 (c. 9)

section 140(2) of the Local Government Finance Act 1988 (c. 41)

sections 39 to 66 of the Local Government and Housing Act 1989 (c. 42) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 80(2) of the Local Government and Housing Act 1989 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 80(3) of the Local Government and Housing Act 1989 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 155(4) of and Schedule 3 to the Local Government and Housing Act 1989 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 37(2) of Schedule 5 to the Local Government and Housing Act 1989

paragraph 60 of Schedule 5 to the Local Government and Housing Act 1989 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

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paragraphs 6, 7 and 59 of Schedule 11 to the Local Government and Housing Act 1989 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 97 of Schedule 11 to the Local Government and Housing Act 1989

section 88(6)(a) of the Environmental Protection Act 1990 (c. 43)

section 11(3) of the Local Government Finance Act 1992 (c. 14)

sections 32(11), 43(8) and 50(6) of the Local Government Finance Act 1992 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 52Z(3) of the Local Government Finance Act 1992

section 69(1) of the Local Government Finance Act 1992

paragraph 90 of Schedule 13 to the Local Government Finance Act 1992 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 51(2) of the Local Government (Wales) Act 1994 (c. 19) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 30 of Schedule 15 to the Local Government (Wales) Act 1994

paragraph 88 of Schedule 16 to the Local Government (Wales) Act 1994 (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 8(5) of Schedule 8 to the Environment Act 1995 (c. 25)

section 30 of the Police and Magistrates' Courts Act 1994 (c. 29) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 73 of and paragraph 31(2) of Schedule 10 to the Environment Act 1995 (c. 25) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

Schedule 7 to the Police Act 1996 (c. 16) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

The Local Government Finance (Supplementary Credit Approvals) Act 1997 (c. 63) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 81(4) of the Government of Wales Act 1998 (c. 38) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

paragraph 5 of Schedule 12 to the Access to Justice Act 1999 (c. 22) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

section 1(4) of the Rating (Former Agricultural Premises and Rural Shops) Act 2001 (c. 14)

paragraph 53 of Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) (only for the purpose of and in relation to financial years beginning on or after 1st April 2004)

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## PART II

Provisions coming into force on 1st April 2004 in so far as they relate to Wales

Section 64

Section 67(2)

Section 92(2)

Section 120

Schedule 6

Schedule 7 and section 127(1) so far as relating to—

Paragraph 4

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## SCHEDULE 2

Article 3

### Transitional Provisions and Savings

#### Local authorities discretionary expenditure

1. Despite the repeal of section 137(4AA) of the Local Government Act 1972 (c. 70), article 2(2) of the Local Authorities (Discretionary Expenditure Limits) (Wales) Order 2000(3) is to remain in force.

#### Local Government and Housing Act 1989

2.—(1) Despite the repeal of those sections of and paragraphs of Schedule 3 to the Local Government and Housing Act 1989 (c. 42) in column (1) below the corresponding regulations in column (2) are to remain in force until 31st March 2004, and thereafter to the extent that the relevant provisions are saved by paragraph 2(2)(a) to (i) of this Schedule:

(1)	(2)
Section 66(1)(a)	The Local Authorities (Capital Finance) (Approved Investments) Regulations 1990(4)  The Local Authorities (Capital Finance) (Approved Investments) (Amendment) Regulations 1991(5)  The Local Authorities (Capital Finance) (Approved Investments) (Amendment) Regulations 1992(6)
Sections 40(5)(a), 49(3), 51(7), 59(3) and (5), 61(4), 64(2), 66(1)(a) and (6) and paragraphs 10, 15(1)(a) and 18(1) of Schedule 3	The Local Authorities (Capital Finance and Approved Investments) (Amendment) Regulations 1995(7)
Sections 40(5)(b), 42(4)(a), 49(3), 51(7), 58(9)(b), 59(3) and (5), 64(2), 66(1)(a) and paragraphs 10 and 15(1)(a) of Schedule 3	The Local Authorities (Capital Finance and Approved Investments) (Amendment No. 2) Regulations 1995(8)
Sections 48(5), 49(3), 58(9)(b), 59(3), (4) and (5), 61(4), 64(2), 66(1)(a) and paragraphs 10 and 15(1)(a) of Schedule 3	The Local Authorities (Capital Finance and Approved Investments) (Amendment) Regulations 1996(9)
Sections 40(5), 42(4), 48(1)(c) and (5), 49(3), 51(7), 57(1)(c), 58(4)(b) and (9), 59(3) to (5), 61(4), 64(2) and (5), 66(1)(a) and (6) and paragraphs 10, 11(2), 15(1)(a), 17, 18(1) and 20 of Schedule 3	The Local Authorities (Capital Finance) Regulations 1997(10)

(3) S.I. 2000/990.

(4) S.I. 1990/426.

(5) S.I. 1991/501.

(6) S.I. 1992/1353.

(7) S.I. 1995/850.

(8) S.I. 1995/1982.

(9) S.I. 1996/568.

(10) S.I. 1997/319.



<b>(1)</b>	<b>(2)</b>
Sections 48(1)(c), 49(3), 59(4) and 61(4)	The Local Authorities (Capital Finance) (Amendment) Regulations 1997( <b>11</b> )
Sections 48(1)(c), 59(4) and paragraphs 15(1)(a) and 20 of Schedule 3	The Local Authorities (Capital Finance) (Amendment) Regulations 1998( <b>12</b> )
Section 48(5)	The Local Authorities (Capital Finance) (Amendment) (No. 2) Regulations 1998( <b>13</b> )
Sections 40(5)(a), 58(9)(a) and 59(3) and (5) and paragraph 15(1)(a) of Schedule 3	The Local Authorities (Capital Finance) (Amendment No. 3) Regulations 1998( <b>14</b> )
Sections 59(4) and (5)	The Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 1999( <b>15</b> )
Sections 40(5)(a), 48(1)(c), 49(2), 59(4) and (5), 61(4) and 66(1)(a)	The Local Authorities (Capital Finance and Approved Investments) (Amendment) (Wales) Regulations 1999( <b>16</b> )
Section 49(3)	The Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 2000( <b>17</b> )
Section 61(1)(a)	The Local Authorities (Approved Investments) (Amendment) (Wales) Regulations 2001( <b>18</b> )
Section 58(9) and 66(1)(a)	The Local Authorities (Capital Finance and Approved Investments) (Amendment) (Wales) Regulations 2002( <b>19</b> )
Section 66(1)(a)	The Local Authorities (Capital Finance) (Approved Investments) (Amendment) (No. 2) (Wales) Regulations 2002( <b>20</b> )
Section 49(2)	The Local Authorities (Capital Finance) (Rate of Discount for 2003/2004) (Wales) Regulations 2003( <b>21</b> )
Section 42(4)	The Local Authorities (Capital Finance) (Amendment) (Wales) Regulations 2003( <b>22</b> )

- (a) (2) (a) Sections 39 (application of Part 4) and 66 (interpretation of Part 4) of the Local Government and Housing Act 1989 are to continue to have effect on and after 1st April 2004, as if those sections had not ceased to have effect or been repealed by virtue of the Act, for the purposes of the transitional provisions and savings in paragraphs (b) to (i) below.

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(11) S.I. 1997/848.  
(12) S.I. 1998/371.  
(13) S.I. 1998/602.  
(14) S.I. 1998/1937.  
(15) S.I. 1999/501.  
(16) S.I. 1999/1852.  
(17) S.I. 2000/992.  
(18) S.I. 2001/3731.  
(19) S.I. 2002/885.  
(20) S.I. 2002/1884.  
(21) S.I. 2003/894.  
(22) S.I. 2003/915.

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- (b) Sections 40 to 42 of the Local Government and Housing Act 1989 (capital purposes and charge of expenditure to revenue account) are to continue to have effect in relation to expenditure incurred by a local authority before 1st April 2004 as if those sections had not ceased to have effect or been repealed by virtue of the Act.
- (c) Any direction made under section 40(6) of the Local Government and Housing Act 1989 (capital purposes) —
  - (i) In respect of expenditure which may be treated by the authority concerned as expenditure for capital purposes; and
  - (ii) In which the period specified under section 40(6)(d) ends on or after 1st April 2004, is to continue to have effect on and after 1st April 2004 as if it were a direction made under section 16(2)(b) of the Act (“capital expenditure”), and accordingly the expenditure referred to in the direction may be treated by the authority concerned as capital expenditure for the purposes of Chapter 1 of Part 1 of the Act.
- (d) Sections 54 to 57 of the Local Government and Housing Act 1989 (credit approvals) are to continue to have effect before 1st October 2004, as if they had not ceased to have effect or been repealed by virtue of the Act, for the purposes of any basic credit approval or supplementary credit approval issued before that date for a financial year, or period, beginning before 1st April 2004.
- (e) Sections 58, 59 and 61 of the Local Government and Housing Act 1989 (capital receipts) are to continue to have effect before 1st October 2004, as if they had not ceased to have effect or been repealed by virtue of the Act, for the purposes of section 60 of the Local Government and Housing Act 1989 (the usable balance of capital receipts).
- (f) Section 60 of the Local Government and Housing Act 1989 is to continue to have effect before 1st October 2004, as if it had not ceased to have effect or been repealed by virtue of the Act, for the purposes of any determination made under that section in respect of the usable part of the authority’s capital receipts that are to be applied before 1st April 2004.
- (g) Part 4 of Schedule 3 to the Local Government and Housing Act 1989 (minimum revenue provision) is to continue to have effect before 1st October 2004, as if it had not ceased to have effect or been repealed by virtue of the Act, for the purposes of section 63(1) of the Local Government and Housing Act 1989 (duty to set certain amounts aside as provision to meet credit liabilities).
- (h) Subsections (1) and (5) of section 63 of the Local Government and Housing Act 1989 are to continue to have effect before 1st October 2004, as if they had not ceased to have effect or been repealed by virtue of the Act, for the purposes of any determination under that section made before that date in relation to the financial year beginning on 1st April 2003.
- (i) Section 65 of the Local Government and Housing Act 1989 (information) is to continue to have effect on and after 1st April 2004, as if it had not ceased to have effect or been repealed by virtue of the Act, for the purposes of any information required by the National Assembly for Wales for any purpose specified in paragraph (a), (b) or (c) of subsection (1) insofar as it relates to any financial year beginning before 1st April 2004.

### **Capital Finance — Part 1 of the Act**

#### **3.—(1) Any credit arrangement —**

- (a) within the meaning of section 48 of the Local Government and Housing Act 1989 (credit arrangements);
- (b) in existence immediately before 1st April 2004; and
- (c) which, if it had been entered into on 1st April 2004, would be a credit arrangement within the meaning of section 7 of the Act (“credit arrangements”),

shall be treated as if it were a credit arrangement for the purposes of Chapter 1 of Part 1 of the Act (capital finance etc.).

- (2) The usable part of any capital receipt —
- (a) within the meaning of section 60(2) of the Local Government and Housing Act 1989 (the usable balance of capital receipts); and
  - (b) which is not applied by the local authority in any financial year beginning before 1st April 2004,

is to be treated as if it were a capital receipt within the meaning of section 9 of the Act (“capital receipt”) for the purposes of Chapter 1 of Part 1 of the Act.

#### **Financial administration**

4. Section 27 of the Act (budget calculations: report on inadequacy of controlled reserve) is not to apply in relation to calculations for the purpose of any financial year beginning before 1st April 2005.

#### **Housing revenue account**

5. Despite the coming into force of paragraph 33(3) of Schedule 7 to the Act, any direction made under item 9 in Part 1 of Schedule 4 to the Local Government and Housing Act 1989, which has effect for a financial year beginning on or after 1st April 2004 is to continue to have effect, as if it were made under item 9 as substituted by paragraph 33(3) of Schedule 7 to the Act.

#### **Local retention of rates**

6. Despite the coming into force of section 70 of the Act, the provisions in paragraphs 5(6) and (6A) of Schedule 8 to the Local Government Finance Act 1988 (c. 41) as they apply to any financial year ending on or before 31st March 2005 are to continue to operate as if the amendments to those paragraphs had not been made.

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### **EXPLANATORY NOTE**

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

This Order brings into force on 27th November 2003 those provisions of the Local Government Act 2003 (“the Act”) specified in Part I of Schedule 1 to this Order. It also brings into force on 1st April 2004 those provisions of that Act specified in Part II of Schedule 1 to this Order. Unless otherwise stated in Schedule 1, those provisions as are specified are to come into force on the relevant date for all purposes.

The effect of the provisions specified in Part I of Schedule 1 is explained below.

Sections 1 to 22 of the Act make provision in connection with a new system of capital finance and accounts of local authorities in Wales as follows.

In particular, section 1 provides for local authority borrowing powers, including the power to borrow for the purposes of the prudent management of financial affairs. Sections 2 to 8 make further provision in connection with borrowing. Sections 9 to 11 make provision in relation to capital receipts. Section 12 enables local authorities to invest for purposes relevant to their functions and for

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purposes of the prudent management of their financial affairs. Sections 13 to 20 make provision in connection with security for money borrowed, information to be provided to the National Assembly for Wales (“the Assembly”), guidance by the Assembly, the meaning of “capital expenditure”, external funds, local authority companies and written directions. Section 19 gives Schedule 1 (which makes provision about capital finance in relation to community councils and charter trustees) to the Act operative effect. Sections 21 to 22 make provision in connection with accounting practices and revenue accounts.

Sections 23 and 24 contain definition and interpretation provisions.

Sections 25 to 28 make provision in connection with financial administration. Sections 25 and 27 deal with budget calculations, section 26 with minimum reserves and section 28 with budget monitoring.

The power in section 36 will enable grant to be paid by the Assembly to best value authorities subject to any of the best value duties in sections 3 to 6 of the Local Government Act 1999, in relation to expenses they have incurred in applying for the award of a designation based on excellence in the provision of services. Where a best value authority subject to any of the relevant duties is awarded such designation the power will also enable grant to be paid as a reward for such designation and in relation to expenses incurred or to be incurred by the authority in disseminating information about best practices.

Section 37 will enable the Assembly to give emergency financial assistance to Combined Fire Authorities (combined by virtue of the Fire Services Act 1947) in their own right.

Sections 38 and 39 facilitate the transfer of local authority housing to registered social landlords. Under section 38, the Assembly will be able to make payments to the Public Works Loan Commissioners (“the Commissioners”) so as to reduce or extinguish such debt of a local authority in Wales to the Commissioners as the Assembly thinks fit. The Commissioners may refuse to accept a payment which the Assembly proposes to make to them. Section 39 will enable the Assembly to make payments to local authorities to enable them to repay their debts other than those to the Commissioners.

Section 40 commences Schedule 2 to the Act which makes provision for enabling the Assembly to make two local government finance reports for any financial year, one dealing with police authorities and one dealing with other authorities and bodies.

Sections 41 to 59 make provisions in connection with Business Improvement Districts (“BIDs”). Billing authorities may make arrangements in respect of areas in their authority known as BIDs. In a BID, additional services or improvements of benefit to the local community will be funded by a levy, raised from non-domestic ratepayers or certain non-domestic ratepayers in the BID (section 41). For a BID to be established a majority of those who would be liable to pay the relevant levy must first vote in favour (section 49).

Sections 60, 61, 62(1) and (3) to (10), 66, 67(1) and (3) to (5), 70(1) to (3) and (7) to (9) and 71 amend non-domestic rating provisions in the Local Government Finance Act 1988 in the following ways.

Section 60 requires proposed rating lists to be produced 6 months before they come into force. Section 61 makes provision for a new small business relief. Sections 62(1) and (3) to (10) make provision in relation to calculating the non-domestic rating multiplier. Section 66 provides for a right to use any land for the purpose of operating a meter to measure a supply of gas or electricity or such other service as the Assembly may specify (where the meter is owned by a person other than the consumer of the service) to be a hereditament. Sections 67(1) and (3) to (5) make provision in connection with exemptions for agricultural buildings. Section 70(1) to (3) and (7) to (9) makes provision in connection with local retention of rates. Section 71 makes provision in connection with adjustments for hardship relief.

Section 75(2) to (5) amends the Local Government Finance Act 1992 to make provision in relation to council tax discounts in Wales in relation to second and empty homes.

Section 89 deals with payment and calculation of the Housing Revenue account subsidy and section 90(1) to (3) with negative amounts of Housing Revenue Account subsidy.

Section 100(3) gives effect to Schedule 3 which amends certain of the provisions conferring or governing the exercise of order-making and regulation-making powers under various local government enactments and does so for the purposes of their exercise in relation to authorities to which they have effect.

Section 101 makes general provision in connection with staff transfer matters when a best value authority contracts with a person for the provision of services and section 102 makes provision in particular in connection with pensions and staff transfer matters.

Section 109(1) amends the Audit Commission Act 1998 and makes provision in connection with the inspection of registered social landlords and fees for the same. Section 109(2) makes specific provision for orders and regulations to be made under section 52 of that Act by the Assembly.

Section 117 enables the Assembly to amend enactments relating to a local authority if it considers it appropriate to do so in the light of generally accepted accounting practice.

Section 118 amends section 137 of the Local Government Act 1972 (which enables local authorities to incur expenditure for certain purposes not otherwise authorised) and the related Schedule in that Act.

Section 119 makes provision in connection with the use of fixed penalties paid for litter and dog-fouling offences.

The effect of the provisions specified in Part II of Schedule 1 is explained below.

Section 64 provides relief for registered community amateur sports clubs in respect of non-domestic rates.

Section 67(2) makes an amendment to Schedule 5 of the Local Government Finance Act 1988 such that the exemption from non-domestic rating in respect of agricultural premises is extended.

Section 92(2) enables the Assembly to repeal by order section 24(3) of the Housing Act 1985, as amended by section 92(1) of the Act.

Section 120 makes provision for the regulation of cosmetic piercing and skin colouring business.

Schedule 6 makes transitional provisions associated with the coming into force of section 120.

Schedules 7 and 8 contain consequential amendments and repeals and revocations respectively.

Schedule 2 of the Order has effect for the purposes of making transitional provisions and savings.