



# Regulatory Enforcement and Sanctions Act 2008

## 2008 CHAPTER 13

### PART 1

#### THE LOCAL BETTER REGULATION OFFICE

##### *Supplementary and general*

#### **17 Review of LBRO**

- (1) The Secretary of State must in accordance with this section review LBRO's discharge of its functions.
- (2) The review must take place as soon as practicable after the end of the period of three years beginning with the day on which this section comes into force.
- (3) The review must in particular consider—
  - (a) whether LBRO is discharging its functions effectively and efficiently, and
  - (b) the extent to which LBRO, in discharging its functions under sections 6 to 10, has attained the objective in section 5.
- (4) In conducting a review under this section the Secretary of State must consult—
  - (a) the Welsh Ministers, and
  - (b) such other persons as the Secretary of State considers appropriate.
- (5) The Secretary of State must publish the results of a review under this section.
- (6) The Secretary of State must lay a copy of a review under this section before Parliament and the National Assembly for Wales.

#### **18 Power to dissolve LBRO**

- (1) The Secretary of State may by order—

*Status: Point in time view as at 01/10/2008.*

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- (a) provide for LBRO to be dissolved, and
  - (b) make consequential, supplementary, incidental and transitional provision in relation to its dissolution.
- (2) An order under subsection (1) may in particular—
- (a) provide for the transfer of the property, rights and liabilities of LBRO to another person;
  - (b) provide for the transfer of the functions of LBRO to another person;
  - (c) provide that anything done by or in relation to LBRO is, so far as is necessary for continuing its effect, to have effect as if done by or in relation to another person;
  - (d) provide for anything (which may include legal proceedings) which is in the process of being done by or in relation to LBRO when a transfer under the order takes effect to be continued by or in relation to another person;
  - (e) provide for a reference to LBRO in an enactment, instrument or other document to be treated as a reference to another person.
- (3) Provision under subsection (2)(a) may include provision for property, rights or liabilities to be transferred—
- (a) whether or not they would otherwise be capable of being transferred,
  - (b) without any instrument or other formality being required, and
  - (c) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict their transfer.
- (4) Provision under subsection (2)(a) for the transfer of rights and liabilities relating to employees of LBRO must include provision for the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) to apply in relation to the transfer.
- (5) Provision under subsection (2)(a) or (b) may include provision establishing a body corporate to which property, rights and liabilities, or functions, are transferred.
- (6) Before making an order under this section the Secretary of State must consult—
- (a) the Welsh Ministers, and
  - (b) such persons (or persons representative of such persons) as appear to the Secretary of State to be substantially affected by the dissolution of LBRO.
- (7) The provision which may be made by an order under this section may be made by repealing, revoking or amending an enactment (whenever passed or made).

## **19 Dissolution of LBRO: tax**

- (1) Where an order under section 18 makes provision under subsection (2)(a) of that section, the Treasury may by regulations make provision for varying the way in which a relevant tax has effect in relation to—
- (a) the property, rights or liabilities transferred, or
  - (b) anything done for the purposes of, or in relation to, the transfer.
- (2) The provision which may be made under subsection (1)(a) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to the property, rights or liabilities transferred;

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- (b) the property, rights or liabilities transferred to be treated in a specified way for the purposes of a tax provision;
  - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to the property, rights or liabilities transferred.
- (3) The provision which may be made under subsection (1)(b) includes in particular provision for—
- (a) a tax provision not to apply, or to apply with modifications, in relation to anything done for the purposes of, or in relation to, the transfer;
  - (b) anything done for the purposes of, or in relation to, the transfer to have or not have a specified consequence or be treated in a specified way;
  - (c) the Secretary of State to be required or permitted, with the consent of the Treasury, to determine, or specify the method for determining, anything which needs to be determined for the purposes of any tax provision so far as relating to anything done for the purposes of, or in relation to, the transfer.
- (4) In this section—
- “relevant tax” means income tax, corporation tax, capital gains tax, stamp duty or stamp duty reserve tax;
  - “tax provision” means a provision of an enactment about a relevant tax.

## **20 Orders under Part 1**

- (1) An order or regulations under this Part must be made by statutory instrument.
- (2) A statutory instrument containing an order made by the Secretary of State under section 4(7), 7(4) or 15(7) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing an order made by the Secretary of State under section 4(4) or 18 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.
- (4) A statutory instrument containing an order made by the Welsh Ministers under section 7(4) or 16(7) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (5) A statutory instrument containing regulations made by the Treasury under section 19 is subject to annulment in pursuance of a resolution of the House of Commons.

## **21 Interpretation of Part 1**

In this Part—

- “LBRO” has the meaning given in section 1;
- “the LBRO company” has the meaning given in section 2;
- “local authority” has the meaning given in section 3;
- “relevant function” has the meaning given in section 4.

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