



Japan Local Government Centre, London

Monthly Report for October 2009 (UK) – Local Democracy, Economic Development and Construction Act

Background

The Local Democracy, Economic Development and Construction Bill was introduced in the House of Lords in December 2008. Most of its provisions derive from two main sources. The July 2008 community empowerment white paper *Communities in control* contained commitments to introduce a number of the measures in the first parts of the Bill, while the later sections implement key aspects of the Treasury-led *Review of sub-national economic development and regeneration* of July 2007 which envisaged a stronger role for local authorities in delivering economic development at the local level and within the wider region, as well as a new regional strategy process.

At Second Reading the Government argued that the community empowerment measures, including those relating to petitions and the National Tenant Voice, would increase democracy. Critics argued that there was little point in having them in primary legislation. The Government also argued that the new regional plans prepared by the Regional Development Agencies, in consultation with Leaders' Boards, would be more efficient than the current separation between regional economic and spatial strategies. Critics argued that the new arrangements would be less democratic, with too much attention paid to purely economic aspects. There was also some concern about how Economic Prosperity Boards would work with other regional structures, but Multi-Area Agreements were generally welcomed.

The Government's May 2008 Draft Legislative Programme outlined a Draft Community Empowerment, Housing and Economic Regeneration Bill. However, after this did not progress past the main Queen's Speech that December, the Government stated in May 2009 that it had since come to the conclusion that many provisions in the Bill did not require legislation and could be realised through changes in policy, while those which did could instead be incorporated into the Local Democracy, Economic Development and Construction Bill. In October 2009 ministers tabled last minute amendments to the Bill to allow local authorities to establish their own mutual insurance companies in order to make efficiency savings. This followed a recent High Court judgement against London Boroughs which established a mutual insurance company as having exceeded their legal powers.

The Act, which received royal assent on prorogation on November 12, extends to England and Wales only but some parts apply to England only (while part 8 on construction contracts applies to England, Wales and Scotland).

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Provisions

The Act is composed of eight Parts. Part 1 consists of five Chapters, Part 2 consists of two Chapters. The remaining parts do not consist of any chapters.

Part 1 – Democracy and Involvement

Chapter 1 places a duty on local authorities to make local residents aware of their functions and democratic arrangements, the role of councillors and the relationship of the local authority to other public bodies (health trusts, police authorities, fire authorities, any waste authorities, colleges, national parks authorities, transport authorities, probation services and any other tiers of local government in that area including parish councils). It further requires them to promote knowledge of youth courts and youth offending teams in a local area, as well as to promote local knowledge of the role and recruitment of magistrates locally.

Chapter 2 allows for the introduction of electronic petitions to local councils and a requirement for councils to acknowledge the receipt of all petitions and to debate them. It also allows for the public to call to account any senior officer of the council at a public meeting set aside for that purpose.

Chapter 3 sets out the duty to involve, that is those agencies listed above, local government in the delivery of their services.

Chapter 4 establishes the National Tenant Voice organisation to represent the interest of social housing tenants to government and other bodies.

Chapter 5 rationalises and amends the legislation concerning the granting of local ceremonial freedoms, to eradicate any provisions based on gender and to allow councils to confer the status of honorary alderman on former longstanding councillors.

Chapter 6 removes political restrictions for all but the most senior members of local authority staff.

Part 2 – Governance

Chapter 1 places the role of local authority scrutiny officer in law, including their role and who may or may not perform it. It also allows for the creation of joint scrutiny committees between county and district councils and enacts the amendments concerning the creation of local authority mutual insurance companies.

Chapter 2 gives power to the Audit Commission to audit more than one authority or public body simultaneously if in relation to the same enquiry.

Part 3 – Local Government Boundary and Electoral Change

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This makes the Boundary Committee for England a separate and independent body from the Electoral Commission (as the Local Government Boundary Commission for England), ending the role of the Electoral Commission in determining local government electoral boundaries.

Part 4 – Local Authority Economic Assessments

This requires county and single-tier councils to prepare an assessment of the economic conditions in their area and in the case of county councils to consult district councils below them on this.

Part 5 – Regional Strategy

This provides for the replacement of current regional strategies (spatial and economic) as a single regional strategy for each region outside of London. It also requires regional strategies to take into account policies to mitigate against and adapt to climate change. Furthermore, it replaces the existing regional assemblies with Leaders' Boards, with the membership drawn from the leaders and elected mayors of principal authorities of that region (outside London). The Regional Development Agencies will co-exist on a statutory basis alongside Leaders' Boards, which are required to jointly prepare regional strategies which will guide their work. However, the final endorsement of regional strategies and the composition of Leaders' Boards, as well as the revision of regional strategies will remain subject to approval by the Secretary of State.

Part 6 – Economic Prosperity Boards

This sets out the conditions for the creation of Economic Prosperity Boards across two or more local authorities, subject to the approval of the Secretary of State through secondary legislation. It also sets out how the Secretary of State may determine by secondary legislation the constitution, membership, functions and funding of each EPB.

Part 7 – Multi-Area Agreements

This defines the powers and purpose of a Multi-Area Agreement between two or more local authorities, subject to the approval of the Secretary of State.

Part 8 – Construction Contracts

This reforms the law on construction contracts, including the process of adjudication in cases where work undertaken is not paid.

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