

2012 No. 628 (C. 14)

HOUSING, ENGLAND AND WALES

INFRASTRUCTURE PLANNING

LOCAL GOVERNMENT, ENGLAND AND WALES

LONDON GOVERNMENT

RATING AND VALUATION, ENGLAND

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

The Localism Act 2011 (Commencement No. 4 and Transitional,
Transitory and Saving Provisions) Order 2012

Made - - - -

1st March 2012

The Secretary of State, in exercise of the powers conferred by section 240(2) and (7) of the Localism Act 2011(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012.

(2) In this Order—

“the Act” means the Localism Act 2011;

“the 1961 Act” means the Land Compensation Act 1961(b);

“the 1985 Act” means the Housing Act 1985(c);

“the 1990 Act” means the Town and Country Planning Act 1990(d);

“the 2000 Act” means the Local Government Act 2000(e);

“the 2004 Act” means the Planning and Compulsory Purchase Act 2004(f);

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- (a) 2011 c. 20.
(b) 1961 c. 33.
(c) 1985 c.68.
(d) 1990 c.8.
(e) 2000 c. 22.
(f) 2004 c.5.

“compulsory purchase order” has the same meaning as in the Acquisition of Land Act 1981(a); and

“special enactment” means—

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

Provisions coming into force on 9th March 2012 in relation to England and Wales

2. The following provisions of the Act come into force in relation to England and Wales on 9th March 2012—

- (a) section 21 and Schedule 2 so far as they insert the following provisions into the 2000 Act—
 - (i) sections 9H to 9HE;
 - (ii) section 9R so far as required for the interpretation of sections 9H to 9HE;
 - (iii) paragraphs 1 and 5 of Schedule A1 and section 9GB so far as relating to those paragraphs;
- (b) section 22 and Schedule 3 so far as they relate to the following paragraphs of Schedule 3—
 - (i) paragraphs 56 and 57;
 - (ii) paragraph 68(2)(b), so far as the definition of local authority applies in relation to sections 39 to 44 of, and paragraphs 1 and 6 of Schedule 1 to, the 2000 Act;
 - (iii) paragraph 68(2)(c) and (3);
- (c) Part 4 of Schedule 25 so far as it relates to the repeal in section 39 of the 2000 Act of—
 - (i) subsection (2);
 - (ii) in subsection (3) the words “in Wales”; and
 - (iii) subsection (6); and
- (d) section 237 so far as it relates to the provision mentioned in sub-paragraph (c).

Provisions coming into force on 30th March 2012 in relation to England and Wales

3. The following provisions of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 30th March 2012—

- (a) section 233; and
- (b) Schedule 24.

Provisions coming into force on 31st March 2012 in relation to England and Wales

4. The following provisions of the Act come into force in relation to England and Wales on 31st March 2012—

- (a) section 191(1);
- (b) section 195(2);
- (c) Schedule 20; and
- (d) Part 32 of Schedule 25 and section 237 so far as relating to that Part.

(a) 1981 c. 67. See section 2.

Provisions coming into force on 1st April 2012 in relation to England

5. Subject to articles 9 and 10, the following provisions of the Act (so far as they are not yet in force) come into force in relation to England on 1st April 2012—

- (a) section 46;
- (b) section 69; and
- (c) Parts 7 and 10 of Schedule 25 and section 237 so far as relating to those Parts.

Provisions coming into force on 1st April 2012 in relation to England and Wales

6. Subject to articles 9, 11, 14, 15 and 17, the following provisions of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 1st April 2012—

- (a) sections 154 to 161;
- (b) section 162(1), (2), (3)(a), (4) and (5);
- (c) sections 163 to 166;
- (d) sections 178 and 179;
- (e) sections 185 to 187;
- (f) section 189;
- (g) section 195(1);
- (h) paragraphs 1, 2, 3, 17, 53 and 54 of Schedule 4 and section 26 so far as it relates to those paragraphs;
- (i) Schedules 16, 17 and 19;
- (j) the following Parts of Schedule 25 and section 237 so far as relating to those Parts—
 - (i) Parts 26 and 27;
 - (ii) Part 31 except insofar as that Part repeals paragraphs 73(2) and (3) and 74(a) of Schedule 8 to the Housing and Regeneration Act 2008(a).

Provisions coming into force on 1st April 2012 in relation to England, Wales and to the extent specified in section 239 of the Act, Scotland

7. The following provisions of the Act (so far as they are not yet in force) come into force in relation to England, Wales and, to the extent specified in section 239 of the Act, to Scotland on 1st April 2012—

- (a) sections 128 to 142 and Schedule 13;
- (b) Parts 20 and 21 of Schedule 25 and section 237 so far as relating to those Parts.

Provisions coming into force on 6th April 2012 in relation to England and Wales

8. Subject to articles 9, 12, 13, 16, and 18 to 20, the following provisions of the Act (so far as they are not yet in force) come into force in relation to England and Wales on 6th April 2012—

- (a) sections 116 and 121 and Schedules 9 to 12 but not for the purpose of the holding of a referendum under paragraph 14 or 15 of Schedule 4B to the 1990 Act(b);
- (b) sections 123 to 127;
- (c) section 184;
- (d) section 232;
- (e) Parts 18, 19, 30 and 34 of Schedule 25 and section 237 so far as relating to those Parts.

(a) 2008 c. 17.

(b) Schedule 4B was inserted by Schedule 10 to the Act.

Transitional, transitory and saving provisions

9. The following transitional, transitory and saving provisions have effect.

Transitional etc. provisions: non-domestic rating

10. Where a billing authority has made a decision that section 47 of the Local Government Finance Act 1988(a) (discretionary relief) applies in relation to a hereditament and a chargeable day for a period, and that period includes days on or after 1st April 2012, that decision shall have effect from 1st April 2012 as if made under section 47 of the Local Government Finance Act 1988 as amended by section 69 of the Act.

Transitional etc. provisions: standards

11. Notwithstanding the commencement of paragraph 53 of Schedule 4 to the Act by article 6 (repeal of Schedule 4 to the 2000 Act), paragraph 11 of Schedule 4 to the 2000 Act (law of defamation) shall continue in force in relation to any statement (whether written or oral) made by an ethical standards officer in connection with the exercise of functions by the person while that person was so employed.

Transitional etc provisions: neighbourhood planning referendums

12. The duty to hold a referendum as to the making of—

- (a) a neighbourhood development order imposed by paragraph 12(4) of Schedule 4B to the 1990 Act;
- (b) a neighbourhood development plan imposed by paragraph 12(4) of Schedule 4B to the 1990 Act as applied by section 38C of the 2004 Act; and
- (c) a community right to buy order imposed by paragraph 10(3) of Schedule 4C to the 1990 Act,

does not apply until the date regulations made under paragraph 16 of Schedule 4B to the 1990 Act come into force.

Transitional etc. provisions: planning enforcement

13.—(1) In a case where, before 6th April 2012, an enforcement notice has been issued under section 172 of the 1990 Act(b) (issue of enforcement notice) and not withdrawn under section 173A of that Act (variation and withdrawal of enforcement notices) and either or both of the following sub-paragraphs apply—

- (a) an appeal under section 174 of the 1990 Act(c) (appeal against enforcement notice) has been made against that notice; or
- (b) an application for planning permission for the development of any land to which that enforcement notice relates has been made after the date on which that notice was issued,

section 123(2) and (3) of the Act (retrospective planning permission) shall not apply to that case.

(2) Section 123(4), (5) and (6) of the Act (retrospective planning permission) shall not apply to a case where, before 6th April 2012, an enforcement notice has been issued under section 172 of the 1990 Act (issue of enforcement notice) and not withdrawn under section 173A of that Act (variation and withdrawal of enforcement notice).

(a) 1988 c. 41. Section 47 was amended by Schedule 5 to the Local Government and Housing Act 1989 (c. 42), Schedule 13 to the Local Government Finance Act 1992 (c. 14), Schedule 1 to the Local Government and Rating Act 1997 (c. 29), Schedule 1 to the Corporation Tax Act 2010 (c. 4), section 2 of the Rating (Former Agricultural Premises and Rural Shops) Act 2001 (c. 14), Schedule 7 to the Local Government Act 2003 (c. 26) and section 69 of the Localism Act 2011.

(b) Sections 172 and 173A were substituted by section 5 of the Planning and Compensation Act 1991 (c. 34).

(c) Section 174 was amended by sections 6, 32 and 84 of, and Schedules 7 and 19 to, the Planning and Compensation Act 1991 and S.I. 1992/656 and 2003/956. There are other amendments not relevant to this Order.

- (3) In the case of a breach of planning control—
- (a) which took place before 6th April 2012; and
 - (b) in relation to which the time limits for taking enforcement action under section 171B of the 1990 Act^(a) (time limits) have expired before 6th April 2012,
- section 124 of the Act (time limits for enforcing concealed breaches of planning control) shall not apply to that breach.

Transitional etc. provisions: tenancies of social housing

14.—(1) The amendments made by section 162(1) of the Act apply in respect of a tenancy where the secure tenant referred to in section 90(1) of the 1985 Act dies on or after 1st April 2012.

(2) Those amendments do not apply in respect of a tenancy where the secure tenant dies before that date.

(3) The amendments made by section 162(2) and (3)(a) of the Act apply in respect of a tenancy where the secure tenant referred to in section 89(1) or 90(1) (as the case may be) of the 1985 Act (“the previous tenant”) dies on or after 1st April 2012.

(4) Those amendments do not apply where the previous tenant dies before that date.

(5) The amendments made by section 162(4) and 162(5) apply in respect of a tenancy where the former tenant referred to in Ground 7 in Part 1 of Schedule 2 to the Housing Act 1988^(b) dies on or after 1st April 2012.

(6) Those amendments do not apply where the former tenant dies before that date.

Transitional etc. provisions: regulation of social housing

15.—(1) The amendments and repeals made by section 179 of, Schedule 17 to and Part 27 of Schedule 25 to, the Act do not affect the validity of anything done (or having effect as if done) by or in relation to the Office for Tenants and Social Landlords before 1st April 2012.

(2) Anything which, on 1st April 2012, is in the process of being done by or in relation to the Office for Tenants and Social Landlords may be continued by or in relation to the Homes and Communities Agency in its capacity as the Regulator of Social Housing.

(3) Anything which, on 1st April 2012, is in the process of being done by or in relation to the Office for Tenants and Social Landlords, if in force or effective on 1st April 2012, has effect as if done by or in relation to the Homes and Communities Agency in its capacity as the Regulator of Social Housing, in so far as that is required for continuing its effect on or after 1st April 2012.

(4) The references in paragraphs (1) to (3) to things done include references to things omitted to be done.

(5) Any standard in relation to rent made by the Office for Tenants and Social Landlords under section 193 of the Housing and Regeneration Act 2008^(c) which is in force and effective immediately before that date is to be treated on and after that date as if it were made under section 194 of the Housing and Regeneration Act 2008 (as amended by the Act).

Transitional etc. provisions: Tenancy Deposit Schemes

16.—(1) Subject to paragraph (2), the amendments made by section 184 of the Act apply in respect of any tenancy deposit received by a landlord in connection with a shorthold tenancy where the tenancy was in effect on or after 6th April 2012.

(2) Those amendments do not apply in respect of a tenancy deposit received by a landlord in connection with a shorthold tenancy where—

(a) Section 171B was inserted by section 4 of the Planning and Compensation Act 1991.
(b) 1988 c.50.
(c) 2008 c. 17.

- (a) the tenancy was in effect on or after 6th April 2012, and
- (b) the landlord has, before the end of the period of 30 days beginning with that date—
 - (i) complied with the initial requirements of an authorised scheme in relation to the deposit, and
 - (ii) given to the tenant and any relevant person the information prescribed for the purposes of section 213(5) of the Housing Act 2004^(a).

Transitional etc. provisions: exemption from HMO licensing for buildings run by co-operatives

17. The amendments made by section 185 of the Act do not affect any proceedings commenced before 1st April 2012 for an offence under section 72 of the Housing Act 2004, or any proceedings commenced before that date under sections 73 and 74 of that Act for a rent repayment order.

Transitional etc. provisions: compensation for compulsory acquisition

18.—(1) The main amendments made by section 232 of, and Part 34 of Schedule 25 to, the Act do not apply—

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

(2) In paragraph (1) and article 21 “the main amendments made by section 232 of, and Part 34 of Schedule 25 to, the Act” means the amendments made by those provisions other than—

- (a) the amendments made for the purpose of repealing the existing sections 18 (appeals against certificates under section 17) and 21 (proceedings for challenging validity of decision on appeal under section 18) of the 1961 Act;
- (b) the substitution of section 18 of the 1961 Act (appeal to Upper Tribunal against certificate under section 17);
- (c) the amendments made in the provisions of section 20 of the 1961 Act (powers to prescribe matters relevant to Part 3) that precede paragraph (d) of that section; and
- (d) the amendments made in section 22 of the 1961 Act (interpretation of Part 3).

Transitional etc. provisions: appeals against certificates

19.—(1) Where, before 6th April 2012, an appeal has been made under section 18 of the 1961 Act, the amendments listed in paragraphs (a) to (c) of the definition of “the main amendments made by section 232 of, and Part 34 of Schedule 25 to, the Act” do not apply to that appeal.

(2) Where the new section 18 of the 1961 Act applies to an appeal in a case where the main amendments made by section 232 of, and Part 34 of Schedule 25 to, the Act do not apply, the new section 18(3) of the 1961 Act applies as if its reference to a statement under the new section 17(1)(b) of the 1961 Act (certificates of appropriate alternative development) were a reference to a statement under the existing section 17(4)(b) of the 1961 Act.

Transitional etc. provisions: amendments to planning assumptions

20.—(1) Where, before 6th April 2012—

(a) 2004 c. 34.

- (a) a notice to treat has been given under section 5(1) of the Compulsory Purchase Act 1965^(a) (notice to treat, and untraced owners); or
- (b) a notice to treat is deemed to have been served under—
 - (i) Part 6 of the 1990 Act^(b) (rights of owners etc. to require purchase of interests);
 - (ii) section 7 of the Compulsory Purchase (Vesting Declarations) Act 1981^(c) (constructive notice to treat); or
 - (iii) any other provision authorising an acquisition of or made under any Act which applies the 1961 Act,

the new section 15 of the 1961 Act (planning permission to be assumed for acquiring authority’s proposals) shall apply in that case as if subsections (3) and (4) of the existing section 15 of the 1961 Act^(d) (assumptions not directly derived from development plans) were, with the modifications set out in paragraph (2), subsections (3) and (4) of the new section 15.

(2) The modifications are—

- (a) in section 15(3)—
 - (i) the insertion after “assumed” of “for the purposes of section 14(2)(a) and (b)(i) and (4)(a)”, and
 - (ii) the substitution for “would be granted” of “is in force”, and
- (b) in section 15(4)—
 - (i) the substitution for “the said date” of a reference to the date of service of the notice to treat or (as the case may be) the deemed notice to treat, and
 - (ii) the substitution for “would be granted” of “is in force”.

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

Greg Clark
Minister of State

1st March 2012

Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences various provisions of the Localism Act 2011 (“the Act”).

Article 2 of this Order brings into force on 9th March 2012 in relation to England and Wales sections 21 and 22, Schedules 2 and 3 and Part 4 of Schedule 25 (governance – partially). Article 3 brings into force on 30th March 2012 in relation to England and Wales, so far as they are not yet in force, section 233 and Schedule 24 (tax provisions). Article 4 brings the following provisions into force on 31st March 2012 in relation to England and Wales: section 191(1) (abolition of London Development Agency); section 195(2) and Schedule 20 (consequential amendments); section 237 and Part 32 of Schedule 25 (repeals).

Article 5 brings into force on 1st April 2012 the following provisions of the Act in relation to England so far as they are not yet in force: section 46 and Part 7 of Schedule 25 (repeal of duty relating to petitions); section 69 and Part 10 of Schedule 25 (non domestic rates: discretionary relief).

(a) 1965 c. 56.

(b) Sections 146, 154 and 160 were amended by S.I. 2009/1307. There are other amendments to these provisions but none are relevant to this Order.

(c) 1981 c. 66

(d) Section 15(3) and (4) was amended by sections 31 and 84 of, and Schedules 16 and 19 to, the Planning and Compensation Act 1991.

Article 6 brings into force on 1st April 2012 the following provisions of the Act in relation to England and Wales so far as they are not yet in force: section 26 and Schedule 4 (abolition of Standards Board for England); sections 154 and 155 (flexible tenancies); sections 156 to 161, 162 (partially) 163 to 166 (other provisions relating to tenancies of social housing); section 178 and Schedule 16 (transfer of functions from the Office for Tenants and Social Landlords to the Homes and Communities Agency); section 179 and Schedule 17 (regulation of social housing); section 185 (exemption from HMO licensing for buildings run by co-operatives); section 186 (removal of limitations on GLA's general power); section 187 (new housing and regeneration functions of GLA); section 189 (modification to functions of Homes and Communities Agency) and section 195(1); Schedule 19 (consequential amendments) and Parts 26, 27 and 31 of Schedule 25 (repeals – partially).

Article 7 brings into force on 1st April 2012 the following provisions of the Act, in relation to England and Wales and, to the extent specified in section 239 of the Act and section 240(4) of the Planning Act 2008, to Scotland, so far as they are not already in force: sections 128 to 142 and Schedule 13 (nationally significant infrastructure projects); section 237 and Parts 20 and 21 of Schedule 25 (repeals relating to the Infrastructure Planning Commission and nationally significant infrastructure projects).

Article 8 brings into force on 6th April 2012 the following provisions of the Act, in relation to England and Wales, so far as they are not already in force: section 116 and Schedules 9, 10 and 11, except for the purposes of holding a neighbourhood planning referendum; section 121 and Schedule 12 (neighbourhood planning consequential amendments); sections 123 to 127 (enforcement); section 184 (tenancy deposit scheme); section 232 (compensation for compulsory acquisition); Parts 18, 19, 30 and 34 of Schedule 25 and section 237 (partially) (repeals).

Articles 9 to 20 make transitional, transitory and savings provision.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 partially as to England	18th February 2012	2012/411
Sections 2 to 7 as to England	18th February 2012	2012/411
Section 8(2) partially as to England and Wales	3rd December 2011	2011/2896
Section 8 (so far as not yet in force) as to England and Wales	18th February 2012	2012/411
Sections 9 and 10 partially as to England and Wales	18th February 2012	2012/411
Sections 11 to 14 as to England and Wales	18th February 2012	2012/411
Section 15 as to England and Wales	3rd December 2011	2011/2896
Section 16 to 18 as to England and Wales	15th January 2012	2012/57
Section 19 as to England and Wales	3rd December 2011	2011/2896
Section 20 (partially) as to England and Wales	3rd December 2011	2011/2896
Section 20 as to England and Wales (so far as not yet in force)	15th January 2012	2012/57
Chapter 4 of Part 1 as to England and Wales, so far not yet in force		
Section 21 and Schedule 2 partially as to England and Wales	3rd December 2011	2011/2896
Section 21 and Schedule 2 as to England and Wales) so far as not yet in force	15th January 2012	2012/57
Section 22 and Schedule 3 partially as to England and Wales)	15th January 2012	2012/57

Section 24 as to England and Wales	15th January 2012	2012/57
Section 26 and Schedule 4 partially as to England and Wales	31 January 2012	2012/57
Section 30 partially as to England and Wales	31st January 2012	2012/57
Section 36 partially as to England and Wales	15th January 2012	2012/57
Section 68 as to England	15th January 2012	2012/57
Section 69(8) as to England	3rd December 2011	2011/2896
Section 69(1) to (7) partially as to England	15th January 2012	2011/57
Section 70 as to England and Wales	15th January 2012	2012/57
Sections 72 to 79 and Schedules 5 to 7 as to England and Wales	3rd December 2011	2011/2896
Section 115 as to England and Wales	15th January 2012	2012/57
Sections 116 and 121 and Schedules 10 to 12 partially as to England and Wales	15th January 2012	2012/57
Section 124(2) partially as to England and Wales	15th January 2012	2012/57
Section 128(2) and Schedule 13 partially	15th January 2012	2012/57
Section 129 partially	15th January 2012	2012/57
Section 138(5) partially	15th January 2012	2012/57
Section 142(3) partially	15th January 2012	2012/57
Section 145 partially as to England and Wales	15th January 2012	2012/57
Sections 146 and 147(2)(3)(4) and (5) partially as to England and Wales	15th January 2012	2012/57
Sections 147(1) and (6) partially as to England and Wales	15th January 2012	2012/57
Section 150 partially as to England and Wales	15th January 2012	2012/57
Sections 151 and 152 as to England and Wales	15th January 2012	2012/57
Section 153 partially as to England and Wales	15th January 2012	2012/57
Section 154 partially as to England and Wales	15th January 2012	2012/57
Section 158 partially as to England and Wales	15th January 2012	2012/57
Section 165 partially as to England and Wales	15th January 2012	2012/57
Section 176 as to England and Wales	15th January 2012	2012/57
Section 178 and Schedule 16 partially as to England and Wales	15th January 2012	2012/57
Section 186 partially as to England and Wales	15th January 2012	2012/57
Section 187(1) and (2) as to England and Wales	15th January 2012	2012/57
Section 187(3) and (4) partially as to England and Wales	15th January 2012	2012/57
Section 190 as to England and Wales	15th January 2012	2012/57
Section 191(2) to (5) as to England and Wales	15th January 2012	2012/57
Sections 193 and 194 as to England and Wales	15th January 2012	2012/57
Section 195 partially as to England and Wales	15th January 2012	2012/57

Section 197 (3)(e),(f) and (g) as to England and Wales	15th January 2012	2012/57
Sections 223 and 224 as to England and Wales	15th January 2012	2012/57
Section 230 as to England and Wales	15th January 2012	2012/57
Section 237 partially and Part 4 of Schedule 25 partially and Parts 11 to 13 and 25 of Schedule 25, as to England and Wales	15th January 2012	2012/57
Section 237 partially and Part 9 of Schedule 25 as to England	15th January 2012	2012/57
Section 237 partially and Part 5 of Schedule 25 partially as to England and Wales	31 January 2012	2012/57
Section 237 partially and Part 2 partially and Part 3 as to England and Wales	18th February 2012	2012/411

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STATUTORY INSTRUMENTS

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