

**LOCALISM ACT 2011**  
**KEY IMPLICATIONS FOR LONDON**

**Introduction- key changes**

1. Part 8 (sections 186-231) of the Localism Act 2011 ('the 2011 Act') enacts significant changes to the powers and functions of the Greater London Authority ('the GLA') under the Greater London Authority Act 1999 ('the 1999 Act'). The principal provisions of Part 8 are as follows –
  - (1) Chapter 1 (sections 186-195) which confer housing and regeneration functions on the GLA.
  - (2) Chapter 2 (sections 196-222) which introduce mayoral development corporations.
  - (3) Chapter 3 (sections 223-231) which make further changes to the governance and functions of the GLA.

**Housing and Regeneration Functions**

2. Part 7A of the 1999 Act sets out the GLA's housing functions. Prior to the enactment of the 2011 Act, they were effectively limited to the Mayor's duty to prepare the London housing strategy under section 333A of the 1999 Act. Moreover, section 31(3) of the 1999 Act limited the GLA's spending powers so as to exclude any expenditure on providing any housing, at least in any case where such provision may be made by a London Borough, the Common Council or any other public body (e.g. the Homes and Communities Agency).
3. Section 186 of the 2011 Act removes that prohibition and, in so doing, extends the GLA's general power of competence under section 31 of the 1999 Act. That general power of competence enables the GLA to do anything that supports its three principal purposes-
  - (1) The promotion economic development and wealth creation.
  - (2) The promotion of social development.
  - (3) Improvement of the environment in Greater London.

4. In the exercise of this general power of competence, the Greater London Authority may now incur housing expenditure, including the provision and management of housing, whether or not such housing may also be provided by a London Borough, the Common Council or any other public body. The GLA's powers have also been extended to empower it to incur educational expenditure on sponsoring or facilitating the sponsorship of academies.
5. These new expenditure powers are complemented by sections 187-189 of the 2011 Act. Those provisions –
  - (1) Confer extensive new housing and regeneration powers and functions on the GLA.
  - (2) Confer responsibility upon the GLA for housing functions in Greater London hitherto undertaken by the Homes and Communities Agency ('the HCA').
  - (3) Extend the scope of the Mayor's London housing strategy to reflect the transfer to the GLA of the HCA's housing functions in Greater London.
6. Section 187 of the 2011 Act introduces the following new provisions 9as sections 333ZA-ZJ) into Part 7A of the 1999 Act.
  - A power for the GLA compulsorily to purchase land and proprietary rights for housing and regeneration purposes, subject to authorisation by the Secretary of State. Exercise of those powers is subject to the procedures and incidental powers, set out in schedules 2 and 3 to the Housing and Regeneration Act 2008, that govern the process of acquisition, ancillary arrangements and the interests of statutory undertakers.
  - A prohibition on the GLA's disposal of land held for housing and regeneration purposes (other than by way of short tenancy) for less than the best consideration which can reasonably be obtained, without the consent of the Secretary of State.
  - A power of entry for survey in connection with compulsory purchase and land compensation.
  - A duty on the GLA to ensure that when any housing or land that it acquires, develops or disposes for low cost rental accommodation is made available for rent the landlord is a "relevant provider of social housing" and thus subject to regulation. This social housing duty applies also in cases where the GLA provides infrastructure or gives financial assistance, on condition that

low cost rental accommodation is provided. In relation to social housing located in Greater London, repayments of grant are to be made to the GLA and not the Homes and Communities Agency and that repaid grant monies received by the Greater London Authority may only be spent by it on providing social housing financial assistance to registered providers.

- Provisions governing the relationship between the GLA and the Regulator of Social Housing; in particular, a power enabling the Regulator to limit the giving by the GLA of financial assistance in connection with social housing to a specified registered provider. The purpose of this power is to prevent financial assistance from being given to a registered provider where there are serious concerns about mismanagement or about the viability of that organisation.
- Provisions governing the transfer to the GLA and subsequent disposal or realisation of property rights and liabilities from an urban development corporation and other similar bodies.
- Provision to enable the Secretary of State, with the consent of Treasury, to make payment of grants to the GLA for its housing and regeneration functions.

7. Section 188 of the 2011 Act extends the provisions of section 333A of the 1999 Act as regards the Mayor's London housing strategy. These changes reflect the transfer to the GLA of the housing functions in Greater London for which the HCA has previously been responsible. They therefore require the Mayor to set out his proposals for expenditure and financial assistance for housing provision and meeting housing needs in Greater London. Section 189 of the 2011 Act effect the exclusion of Greater London from the HCA's statutory objects under the Housing and Regeneration Act 2008. Section 190 of the 2011 Act enables the Secretary of State to make a property transfer scheme to govern the transfer of property from the HCA to the GLA (or another specified body).

8. Section 191 of the 2011 Act provides for the abolition of the London Development Agency and the necessary consequential arrangements for the transfer of property and functions to the GLA (or another specified body).

9. Section 192 of the 2011 Act introduces Part 7B (section 333F) into the 1999 Act. Part 7F requires the Mayor to prepare and publish an 'Economic development strategy for London'. The strategy must contain the Mayor's assessment of economic conditions in

London and his policies and proposals for London's economic development and regeneration. He is required to consult representative bodies of both employers and employees in London. The Secretary of State has powers to issue guidance and directions in relation to the contents of the new strategy. This new arrangement replaces the duty of the LDA to prepare a strategy under the Regional Development Agencies Act 2008.

10. Sections 194-195 of the 2011 Act makes detailed arrangements for transfer schemes.

### **Mayoral Development Corporations**

11. The scheme of chapter 2 of part 8 of the 2011 Act is as follows –

- (1) Sections 197-200 provide for the designation and areas of Mayoral development areas and the establishment of Mayoral Development Corporations ('MDCs').
- (2) Section 201 of the 2011 Act sets out the objects and powers of an MDC.
- (3) Sections 202-205 of the 2011 Act provide for the discharge of planning and infrastructure functions within the area of an MDC.
- (4) Sections 206-210 of the 2011 Act provide for the discharge of land functions within the area of an MDC.
- (5) Sections 211-214 of the 2011 Act provide for the discharge of other functions within the area of an MDC.
- (6) Sections 215-217 of the 2011 Act provide for the dissolution of an MDC.
- (7) Sections 218-222 of the 2011 Act make other general provisions in relation to MDCs and Mayoral development areas.

#### *Designation and establishment of MDCs*

12. Section 197 of the 2011 Act sets out the procedure for designating an MDC. The Mayor may designate any area of land in Greater London as an MDC. The principal basis upon which he must exercise that power is set out in subsection 197(3)(a). He must consider designation to be expedient for furthering any one or more of the GLA's principal purposes stated in section 30(2) of the 1999 Act. Prior to designation, the Mayor must consult specified bodies and individuals on his proposals and prepare a draft designation document to be laid before the London Assembly. Following designation, the Mayor must publicise that fact and notify the Secretary of State.

13. Following notification, the Secretary of State must make an order for the establishment of the MDC for the designated area. Section 198 of and schedule 21 to the 2011 Act make detailed provision for the terms of establishment of an MDC.
14. Section 199 of the 2011 Act empowers the Mayor to alter the boundaries of a Mayoral development area so as to exclude any area of land from the designated area. Such action also requires consultation with specified bodies and persons, publicity and notification to the Secretary of State. The latter must give effect to the alteration by order.
15. Section 200 of the 2011 Act empowers the Secretary of State to make a property transfer scheme in relation to an MDC. Again, there are prescribed consultation and publicity requirements.

#### *Objects and powers of an MDC*

16. Section 201(1) of the 2011 Act states that the object of an MDC is to secure the regeneration of its designated area. An MDC has a general power to do anything it considers appropriate for the purposes of its object or for incidental purposes. The Mayor may also confer specific powers upon an MDC. Such powers must also be exercised for the purposes of its object or for incidental purposes.

#### *Planning and infrastructure functions of an MDC*

17. Section 202 of the 2011 Act empowers the Mayor to transfer to an MDC the statutory plan making, development control and neighbourhood planning functions for the whole or any part of its designated area. The Mayor must consult on his proposals for these purposes. He may subsequently vary those arrangements and may make different provisions for different areas. Section 204 empowers the Mayor to restrict or to remove any such planning functions currently exercisable by an MDC.
18. Under section 203 of the 2011 Act, and MDC acting as local planning authority may arrange for the discharge of any of its development control or plan making functions by a Borough Council or the Common Council. Such bodies may in turn arrange for the discharge of those functions by delegated officers or committees.

19. Section 205 of the 2011 Act empowers an MDC to provide or to facilitate the provision of any of the wide range of infrastructure described in that section. Provision may include acquisition, construction, conversion, improvement or repair.

*Land functions of an MDC*

20. Section 206 of the 2011 Act confers on an MDC wide ranging powers in relation to the regeneration and development of land; and bringing land into effective or more effective use.
21. Section 207 empowers an MDC to acquire by agreement land in its area or elsewhere. With the consent of the Mayor, an MDC may be authorised by the Secretary of State compulsorily to purchase any land or any new rights over land within its area or elsewhere in Greater London. The section sets out the statutory process for that purpose. Section 208 makes further detailed provisions in relation to an MDC's powers of compulsory purchase.
22. Section 209 empowers an MDC to dispose of land in any way that it considers appropriate. However, an MDC is prohibited from disposing of any land (save by way of short tenancy or leasehold residue) other than for the best consideration that may reasonably be obtained, without the consent of the Mayor. Disposal of any land acquired compulsorily also requires the Mayor's consent.
23. Section 210 confers a power of entry for survey upon an MDC.

*Other functions of an MDC*

24. Section 211 of the 2011 Act empowers an MDC to adopt any private street in its area upon which any street works have been carried out. Its decision to adopt is subject to rights of appeal to the Secretary of State.
25. Section 212 empowers an MDC to carry on any business and, with the Mayor's consent, to form or to acquire an interest in any corporate body. Any such activities must remain within the scope of the MDC's stated powers and borrowing by a subsidiary company of an MDC is subject to regulations by the Mayor. Section 213 empowers an MDC, subject to the Mayor's consent, to give financial assistance in various stipulated ways to any person. Section 214 empowers the Mayor to transfer to an MDC powers to grant certain

powers of discretionary relief from non-domestic rates that would otherwise be exercisable by the billing authority.

#### *Dissolution of an MDC*

26. Section 215 of the 2011 Act requires the Mayor to keep the continuing existence of an MDC under review. Sections 216 and 217 provide for the statutory arrangements for dissolving an MDC. Dissolution is given effect by the Secretary of State's revocation of the order which established the MDC. Thereupon the Mayor must revoke the designation of the development area in question.

#### *General provisions*

27. Sections 218 of the 2011 Act provides for property transfer schemes in connection with an MDC.

28. Section 219 empowers the Mayor to issue guidance to an MDC in relation to its exercise of its functions. Such guidance must be subject to prior consultation and publicity and may be later revoked, varied and replaced. The MDC is required to have regard to any such current guidance in exercising its functions.

29. Section 220 empowers the Mayor to issue general or specific directions to an MDC as to the exercise of any of its functions. Such guidance must be publicised and may be later revoked, varied and replaced. The MDC is required to have regard to any such current directions in exercising its functions.

30. Section 221 deals with consents. Consents may be unconditional or subject to conditions, general or specific. The Mayor may vary or revoke any consent but must give notice of that fact in order for it to be effective.

31. Section 222 and schedule 22 make consequential amendments.

## **Changes to governance and functions of the GLA**

32. Section 223 of the 2011 Act introduces a new section 39A into the 1999 Act. Section 39A confers on a Government Minister a power to delegate to the Mayor any of the Minister's eligible functions. The Minister in question must be satisfied that the function in question can appropriately be exercised by the Mayor. Any such delegation must be agreed to by the Mayor. The power excludes delegation of any function that consists of a power to make regulations or other legislative instruments or a power to fix fees or charges.
33. Section 224 of the 2011 Act inserts section 34A into the 1999 Act. Section 34A empowers the GLA to carry on specified activities for a commercial purpose. The activities in question are to be specified in regulations made by the Secretary of State with the Treasury's consent. Any such activity must be carried on through a taxable body, to ensure tax parity with the private sector. Otherwise the activity in question will in any event be treated as taxable.
34. Section 225 of the 2011 Act inserts sections 351A-C into the 1999 Act. These new provisions provide for the consolidation of the current environmental strategies that the Mayor must publish into a single 'London Environment Strategy'. The Secretary of State is given the power to issue guidance to the Mayor on the preparation and content of that Strategy. Where the Secretary of State considers that any of the following conditions is satisfied in relation to any provisions of the London Environment Strategy, he may give the Mayor a direction as to the content of those provisions-
- (1) The provisions are inconsistent with any Government policies with respect to the matters to which they relate and the inconsistency would have a detrimental effect on achieving any of the objectives of those policies.
  - (2) The provisions or their implementation are likely to be detrimental to any area outside Greater London.
  - (3) The provisions are inconsistent with any EU obligation of the UK.

A direction under this section may require the Mayor to make specified revisions of the London Environmental Strategy. The power of the Secretary of State to give a direction under this section may only be exercised after consultation with the Mayor. Where the Secretary of State gives a direction under this section, the Mayor must comply with the direction.

35. Section 226 of the 2011 Act repeals the Mayor's existing duty to prepare 4-yearly reports on the state of London's environment. Section 227 requires the Mayor to seek to ensure consistency with the UK's EU and other international obligations when preparing a strategy. Section 228 amends the statutory consultation process for preparing or revising a Mayoral strategy by repealing the statutory 2-stage process under section 42A of the 1999 Act. Henceforth the Mayor must consult the Assembly and functional bodies at the same time as he consults the public.
36. Section 229 of the 2011 Act inserts section 42B into the 1999 Act. That new section empowers the London Assembly to reject any of the Mayor's strategies by a two thirds majority vote against its publication. That power of veto is, however, disapplied in a case where the strategy in question has been prepared in compliance with a direction given by the Secretary of State.
37. Sections 230 and 231 of the 2011 Act respectively make detailed amendments to the existing rules under the 1999 Act for the sharing of administrative service by London authorities; and to existing arrangements for access to meetings of and disclosure of information about the function of Transport for London.

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