



Levelling-up and Regeneration Act 2023

2023 CHAPTER 55

PART 2

LOCAL DEMOCRACY AND DEVOLUTION

CHAPTER 2

OTHER PROVISION

Local authority governance

72 Transfer of functions: changes in governance arrangements

- (1) The Local Government Act 2000 is amended in accordance with subsections (2) to (5).
- (2) In section 9KC (resolution of local authority), after subsection (5) insert—
 - “(6) See sections 9NC and 9ND (transfer of functions: changes in governance arrangements) for further provision about when a resolution under this section may be passed.”
- (3) In section 9MB (requirement to hold and give effect to referendum)—
 - (a) in subsection (4)—
 - (i) the words from “within the period” to the end of the subsection become paragraph (a), and
 - (ii) at the end of that paragraph insert “, or
 - (b) where paragraph (b) of section 9ND(7) (transfer of functions: changes in governance arrangements) applies, within the period of 28 days beginning with the day when the regulations mentioned in that subsection are amended or revoked.”, and
 - (b) after subsection (5) insert—

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“(6) See section 9ND for further provision about referendums under section 9M.”

(4) In section 9MF (further provision with respect to referendums), after subsection (6) insert—

“(7) See section 9ND (transfer of functions: changes in governance arrangements) for further provision about referendums under section 9MC.”

(5) After section 9NB insert—

“Transfer of functions: changes in governance arrangements

9NC Transfer of functions: changes in governance arrangements not subject to a referendum

- (1) This section applies where—
 - (a) the Secretary of State has made regulations under section 16 of the Cities and Local Government Devolution Act 2016 (power to transfer etc public authority functions to certain local authorities) that provide for a function to be exercisable by a local authority,
 - (b) the local authority proposes to pass a resolution under section 9KC to make a relevant change in governance arrangements, and
 - (c) that change is not—
 - (i) subject to approval in a referendum under section 9M, or
 - (ii) required to be implemented by the local authority in accordance with section 9MF(4) (referendums under sections 9MC to 9ME).
- (2) The local authority may not pass the resolution unless the local authority complies with this section.
- (3) The local authority must notify the Secretary of State of the proposed change in governance arrangements.
- (4) Where the Secretary of State receives such a notification, the Secretary of State must consider whether, as a result of the proposed change in governance arrangements, the regulations mentioned in subsection (1)(a) should be amended or revoked (see section 17(1) of the Cities and Local Government Devolution Act 2016).
- (5) The Secretary of State must notify the local authority of the decision under subsection (4).
- (6) If the Secretary of State considers that the regulations should be amended or revoked, the local authority may not pass the resolution until the regulations have been so amended or revoked.
- (7) If the Secretary of State considers that the regulations should not be amended or revoked, the local authority may pass the resolution.
- (8) In this section—

“function” has the same meaning as in section 16 of the Cities and Local Government Devolution Act 2016;

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“relevant change in governance arrangements” means—

- (a) a change under section 9K for the local authority to cease to operate executive arrangements, or
- (b) a change under section 9KA for the local authority to vary its executive arrangements so that they provide for a leader and cabinet executive.

(9) This section is subject to section 9KC(3) and (4) (timing of change in governance arrangements).

9ND Transfer of functions: changes in governance arrangements subject to a referendum

- (1) This section applies where—
- (a) the Secretary of State has made regulations under section 16 of the Cities and Local Government Devolution Act 2016 (power to transfer etc public authority functions to certain local authorities) that provide for a function to be exercisable by a local authority,
 - (b) the local authority proposes to pass a resolution under section 9KC to make a relevant change in governance arrangements, and
 - (c) that change is subject to approval in a referendum under section 9M.
- (2) This section also applies where—
- (a) the Secretary of State has made regulations under section 16 of the Cities and Local Government Devolution Act 2016 that provide for a function to be exercisable by a local authority, and
 - (b) the local authority is required by regulations under section 9MC (referendum following petition) to hold a referendum on whether the authority should make a relevant change in governance arrangements.
- (3) The local authority may not—
- (a) hold the referendum mentioned in subsection (1)(c) or (2)(b), or
 - (b) pass a resolution which makes the proposed change in governance arrangements,
- unless the local authority complies with this section.
- (4) The local authority must notify the Secretary of State of the proposed change in governance arrangements.
- (5) Where the Secretary of State receives such a notification, the Secretary of State must consider whether, as a result of the proposed change in governance arrangements, the regulations mentioned in subsection (1)(a) or (2)(a) should be amended or revoked (see section 17(1) of the Cities and Local Government Devolution Act 2016).
- (6) The Secretary of State must notify the local authority of the decision under subsection (5).
- (7) If the Secretary of State considers that the regulations should be amended or revoked—
- (a) the local authority may hold the referendum mentioned in subsection (1)(c) or (2)(b), but

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- (b) if the result of the referendum is to approve the proposals, the local authority may not pass a resolution which makes the proposed change in governance arrangements until the regulations have been so amended or revoked.
- (8) If the Secretary of State considers that the regulations should not be amended or revoked, the local authority may hold the referendum mentioned in subsection (1)(c) or (2)(b) and (if the result of the referendum is to approve the proposals) pass the resolution.
- (9) In this section “function” and “relevant change in governance arrangements” have the same meaning as in section 9NC.
- (10) This section is subject to sections 9KC(3) and (4), 9MB and 9MF (timing of change in governance arrangements etc).”
- (6) In section 17 of the Cities and Local Government Devolution Act 2016 (section 16: procedure etc)—
 - (a) in subsection (1)—
 - (i) omit the “and” at the end of paragraph (a), and
 - (ii) after paragraph (b) insert “, and
 - (c) where subsection (4A) applies to the regulations, the Secretary of State has had regard to the matters in subsection (4B).”, and
 - (b) after subsection (4) insert—
 - “(4A) This subsection applies to regulations under section 16 that—
 - (a) revoke or otherwise amend previous regulations under that section, and
 - (b) are made in response to a notification from a local authority under section 9NC(3) or 9ND(4) of the Local Government Act 2000 (transfer of functions: changes in governance arrangements) of a proposed change in governance arrangements.
 - (4B) The matters mentioned in subsection (1)(c) are—
 - (a) the circumstances of the area of the local authority, and
 - (b) the likely impact of the change in governance arrangements on—
 - (i) the economic, social and environmental well-being of some or all of the people who live or work in the area of the local authority, and
 - (ii) the accountability and decision-making of the local authority.”

Commencement Information

II S. 72 in force at Royal Assent, see s. 255(2)(k)

Changes to legislation:

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