



## The Localism Act 2011: When does it come into force in England?

by Alastair Lewis, Partner

### Introduction

The Localism Act 2011 received Royal Assent on 15 November. It is of real importance to all local authorities and many other public bodies, as well as many others, including developers, those who contract with local authorities, and not least, local residents. It is an enormous Act. The list of contents alone runs to 12 pages. A single note like this could not do justice to it, so we intend to produce a series of articles on some of the main provisions of the Act. We start with the question that most people will want answers to. When will the Act come into force?

As is usual with Acts of this size, different provisions of the Act come into force at different times, and for the majority of the provisions, the exact date is unknown, because it will be set by the government in secondary legislation. This is quite normal, particularly where there is further work to be done in preparing for the implementation of the relevant proposal.

We set out the commencement dates known so far in the form of a table. It will be seen that some important provisions **have already come into force**. In particular, some of the provisions which pave the way for the **abolition of regional strategies** have come into force, and should eventually end the uncertainty created by the original announcement made by the coalition soon after it came to power and which resulted in the CALA Homes saga.

This note **does not apply to Wales**, where different commencement provisions apply.

As mentioned, the great majority of the provisions of the Act will come into force on a date to be appointed by the Secretary of State, and these include the new general power of competence, and other significant provisions such as those relating to governance and standards, Neighbourhood Planning and the abolition of the IPC.



### Known Commencement Dates

<i>Provision</i>	<i>Commencement Date</i>
Section 23: This will allow regulations to be made in advance of the <b>new governance provisions</b> coming into force, so that preparations can be made in advance by local authorities wishing to switch to new arrangements, for example back to the old committee system which is to reappear as an option.	15 November 2011
Section 37 and Paragraphs 57 and 58 of Schedule 4: These allow orders and directions to be made in connection with the <b>abolition of the Standards Board for England</b> , and for transitional provisions to be made in relation to the new standards regime.	15 November 2011
Chapter 2 of Part 5 (regulation making power only) and section 86: This will allow regulations to be made to provide more meat to the bones of the <b>Community Right to Challenge</b> provisions before they are brought into force, and will allow advice and assistance to be issued.	15 November 2011
Chapter 3 of Part 5 (regulation making power only): This will allow regulations to be made to provide more meat to the bones of the <b>Assets of Community Value</b> provisions before they are brought into force, and will allow advice and assistance to be issued.	15 November 2011



<i>Provision</i>	<i>Commencement Date</i>
<p>Parts of section 109, parts of Schedule 8, paragraph 15 of Schedule 25: These are probably the most significant of the provisions that commenced on 15 November. This is the first step in the <b>abolition of Regional Strategies</b>. The provisions coming into force will repeal the underlying legislation which establishes regional strategies. They also give the Secretary of State the power to abolish the strategies themselves (section 109(3)) but that can only be done by an order made by statutory instrument. The provisions of the Town and Country Planning Act 1990 which prohibit a local planning authority from granting permission unless they have consulted with and given notice to regional authorities are repealed.</p>	<p>15 November 2011</p>
<p>Section 110: this inserts a provision in the Planning and Compulsory Purchase Act 2004, providing a <b>duty on local and county planning authorities</b> (and potentially others) <b>to co-operate with each other</b> (and potentially others) <b>in relation to the planning of sustainable development</b>.</p>	<p>15 November 2011</p>
<p>Parts of sections 116 and 121 and Schedules 9 to 12: These will allow regulations (including procedural regulations) to be made to provide more meat to the bones of the <b>neighbourhood planning</b> provisions before they are brought into force, and will allow advice and assistance to be issued.</p> <p>Sections 117 to 120: these allow regulations to be made to provide for the imposition of charges by local authorities in relation to their neighbourhood planning functions and allow the Secretary of State to give advice and assistance (including financial assistance).</p>	<p>15 November 2011</p>



<i>Provision</i>	<i>Commencement Date</i>
<p>Section 122: To the extent that it inserts provisions into the Town and Country Planning Act 1990 which require or authorize the making of provision in a development order (eg a general permitted development order or a local development order). It is not easy to discern exactly what provisions are brought into force here but they seem to include provisions which enable the making of <b>requirements in development orders about consultation in relation to applications for planning permission.</b></p>	<p>15 November 2011</p>
<p>Section 144: application of the Planning provisions of the Act to the Crown.</p>	<p>15 November 2011</p>
<p>Sections 168 to 175: Calculation of <b>settlement payments and limits on indebtedness in relation to local housing authorities</b> and alteration of section 11 of the Local Government Act 2003 (use of capital receipts from disposal of housing land).</p>	<p>15 November 2011</p>
<p>Section 233 and Schedule 24: <b>tax provision</b> in relation to the transfer of property, rights and liabilities from the Office for Tenants and Social Landlords, the Homes and Communities Agency and the London Development Agency and provision enabling the Treasury to make tax regulations in relation to transfers to or from a Mayoral Development Corporation.</p>	<p>15 November 2011</p>
<p>Section 234: <b>Pre-commencement consultation</b> – this ensures that any consultation about any of the provisions in the Act that has taken place or takes place before those provisions came into effect is valid.</p>	<p>15 November 2011</p>



<i>Provision</i>	<i>Commencement Date</i>
<p>Section 114: This section amends the provisions in the Planning Act 2008 relating to the approval of charging schedules for <b>Community Infrastructure Levy ("CIL")</b>. Instead of a charging authority being required to submit a declaration to the examiner who considers a charging schedule, the examiner will now consider whether the charging authority has complied with the "drafting requirements" within Part 11 of the 2008 Act and the Community Infrastructure Levy Regulations. Not all recommended modifications to the draft charging schedule made by the examiner will be binding on the charging authority.</p>	<p>16 November 2011</p>
<p>Section 25: The new provision which deals with <b>pre-determination</b> by local authority and other decision makers.</p>	<p>15 January 2012</p>
<p>Chapter 8 of Part 1: New provisions relating to local authority <b>Pay Accountability</b>.</p>	<p>15 January 2012</p>
<p>Section 44: Arrangements for the provision of services and discharge of functions involving the <b>Commission for Local Administration</b> in England.</p>	<p>15 January 2012</p>
<p>Section 45 and Part 6 of Schedule 25: <b>Repeal of the duties relating to the promotion of democracy</b> in Chapter 1 of Part 1 of the Local Democracy, Economic Development and Construction Act 2009.</p>	<p>15 January 2012</p>
<p>Section 47 and Part 8 of Schedule 25: Repeal of provisions which enable waste collection authorities to make <b>waste reduction schemes</b>.</p>	<p>15 January 2012</p>
<p>Section 71: Regulation making power to make conditions for the <b>cancellation of certain backdated non-domestic rates</b>.</p>	<p>15 January 2012</p>



<i>Provision</i>	<i>Commencement Date</i>
<p>Section 111 and Part 17 of Schedule 25: Amends section 15 of the Planning and Compulsory Purchase Act 2004 so that local planning authorities will have to publish up to date information direct to the public on <b>local development schemes</b> and removes requirement to submit scheme to the Secretary of State or Mayor of London.</p>	<p>15 January 2012</p>
<p>Section 112: Amends the Planning and Compulsory Purchase Act 2004 so that when considering a <b>development plan document</b>, the planning inspector must recommend adoption where it would be reasonable to conclude that the document satisfies statutory requirements and can be considered sound; removes the strict requirement that local planning authorities must implement the inspector’s recommendations; and allows a local planning authority to withdraw a development plan document at any time before its adoption.</p>	<p>15 January 2012</p>
<p>Section 113: Requires local planning authorities to publish <b>information about the implementation of their local development schemes and local development policies</b> direct to the public at least yearly instead of sending a report to the Secretary of State.</p>	<p>15 January 2012</p>
<p>Section 143: Adds <b>local finance considerations</b> as a matter to which a local planning authority must have regard when determining a planning application.</p>	<p>15 January 2012</p>
<p>Section 177: <b>Assisting tenants of social landlords to become homeowners.</b></p>	<p>15 January 2012</p>
<p>Section 183, Schedule 18 and Part 29 of Schedule 25: <b>Abolition of Home Information Packs</b></p>	<p>15 January 2012</p>



<i>Provision</i>	<i>Commencement Date</i>
Chapter 2 of Part 8: The provisions which introduce <b>Mayoral Development Corporations in London</b> come into force except the requirement on the Mayor to have laid a pre-determination document before the Assembly.	15 January 2012

This note does not provide specified legal advice and should not be acted or relied upon as doing so. If you would like further information or specific advice, please contact Alastair Lewis (0207 405 4600 or [alewis@sharpepritchard.co.uk](mailto:alewis@sharpepritchard.co.uk))