

## **LOCAL GOVERNMENT (RELIGIOUS ETC. OBSERVANCES) BILL**

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### **EXPLANATORY NOTES**

#### **INTRODUCTION**

1. These Explanatory Notes relate to the Local Government (Religious etc. Observances) Bill. They have been provided by the Department for Communities and Local Government, with the consent of Dr Matthew Offord MP, the Member in charge of the Bill, in order to assist the reader of the Bill and to help to inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

#### **BACKGROUND AND SUMMARY**

##### **Background**

3. The background to this Bill is the High Court decision in *R oao National Secular Society and Bone v Bideford Town Council* [2012] EWHC 175 (Admin) where the Court decided that the saying of prayers as part of the formal meeting of a council was not lawful under the subsidiary powers contained in section 111 of the Local Government Act 1972, and that there was no statutory power permitting the practice to continue.
4. Shortly after the High Court's judgement the Government brought into force the general power of competence under section 1 of the Localism Act 2011. This power gives principal local authorities in England (county, district and London borough councils, the Common Council of the City of London, the Council of the Isles of Scilly) and some parish councils the freedom to continue to have prayers as part of formal meetings of the authority. But smaller parish councils do not have this power and neither do a range of single-purpose authorities such as fire and rescue authorities, and integrated transport authorities.
5. The Bill applies to a wide range of local authorities (including those that already have the benefit of the general power of competence): see clause 2.

## **Summary**

6. The effect of the Local Government (Religious etc. Observances) Bill is to give local authorities in England, and a range of other authorities in England such as fire and rescue authorities, integrated transport authorities and combined authorities, the power to include prayers etc as an item of business should they wish to do so, and to support, facilitate, or be represented at religious or similar events. In particular this will ensure that (i) small parish councils which do not have the power of general competence can take time for prayers at their meetings, and (ii) authorities in England can support activities, such as the annual commemoration on Remembrance Sunday, which have a religious dimension.
7. The main provisions insert three new sections into Part 7 of the Local Government Act 1972.

## **TERRITORIAL EXTENT AND APPLICATION**

8. The Local Government (Religious etc. Observances) Bill extends to England and Wales; it makes provision in relation to local and other authorities in England.

## **COMMENTARY ON CLAUSES**

9. Clause 1 inserts a new section 138A (prayers and other observances) and a new section 138B (involvement with religious events and events connected with a belief) in Part 7 of the Local Government Act 1972.
10. New section 138A provides that the business at a meeting of a local authority in England may include time for prayers or other religious observance or observance connected with a religious or philosophical belief. These provisions are applied by *subsection (2)* of the new section 138A to meetings of a committee of a local authority in England, a joint committee of two or more such authorities, or a sub-committee of such a committee or joint committee. *Subsection (3)* provides that the provisions of this new section 138A do not limit other powers.
11. *Subsection (1)* of the new section 138B provides that a local authority in England may support or facilitate, or make arrangements to be represented at, a religious event, an event with a religious element, an event connected with a religious or philosophical belief or an event with an element connected with such a belief. *Subsection (3)* provides that any other powers of a local authority in England may be exercised for the purpose of supporting or facilitating any of the events mentioned in subsection (1) or for purposes that include that purpose.

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12. Clause 2 (1) inserts a new section 138C (application of sections 138A and 138B to other authorities) in Part 7 of the Local Government Act 1972. The new section 138C(1) and (7), and the amendments made by clause 2(2) and (3) provide that certain public bodies, subject (in some cases) to certain limitations, are to be treated as a local authority for the purposes of sections 138A and 138B. Accordingly, at meetings of these bodies the business may include time for prayers or other religious observance or observance connected with a religious or philosophical belief. Similarly, these bodies may support or facilitate, or make arrangements to be represented at a religious event, an event with a religious element, an event connected with a religious or philosophical belief or an event with an element connected with such a belief.
13. The limitations in new section 138C(1) are designed to take account of: those authorities that consist of a single individual (in whose case there will not be meetings of the authority); the structure within the Greater London Authority (but see also new section 138B(2)(d) and (3)); the pre-existing powers of authorities to whom certain public functions have been entrusted (but see also new section 138B(4) to (6)); and some police and crime panels having the status of a committee, or joint committee, of the council or councils concerned (but see also new section 138B(2)(a) and (b)).

#### **FINANCIAL EFFECTS AND PUBLIC SECTOR MANPOWER**

14. The Bill does not require any additional public expenditure or changes to public service manpower.

#### **IMPACT ASSESSMENT**

15. An impact assessment has not been prepared for the Bill as it has no impact on businesses or civic society, imposes no obligations, and does not involve any kind of redistribution or regulatory change.

#### **COMPATIBILITY WITH THE EUROPEAN CONVENTION OF HUMAN RIGHTS**

16. The Bill may engage Article 9 of the ECHR (the right to freedom of thought, conscience and religion) and Article 14 (which requires Convention rights to be secured without discrimination on the grounds of religion, political or other opinion) but is not incompatible with either Article. The Bill enables rather than requires local authorities to include prayers etc. It does not compel and is not, itself, discriminatory. It is not limited to, for example, Christian prayers but allows all forms of religious observances or observances connected with philosophical beliefs. The Bill does not seek to define either concept (in line with section 10 of the Equalities Act 2010). An authority that chooses to use the power will need to comply with its own obligations under the Human Rights Act 1988 and ensure that, for example, they do not compel a councillor to participate in prayers or other observances. Consequently, in the

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Government's view, the Bill is compatible with the ECHR.

#### **COMMENCEMENT**

17. The Bill provides that its provisions come into force at the end of two months beginning with the day on which it is passed.

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