

# Local Services and Facilities Bill

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**B I L L**

TO

Require public authorities to undertake a social and environmental impact assessment and to consult persons or bodies affected before closing premises that provide services or ceasing to provide services from particular premises; to amend the Town and Country Planning Act 1990 in relation to material changes in use affecting services to or amenities for the public; to confer powers on local authorities in connection with the proposed closure of leisure and sports facilities; to make provision about local food strategies; to make provision in connection with the delivery of beer to public houses from local breweries; and for connected purposes.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Local public services: closure or termination*

**1 Closure of premises or termination of service provision from premises: assessment and consultations**

- (1) Where a public authority proposes to—
- (a) close premises that provide services, or 5
  - (b) cease to provide a particular service from particular premises,
- it shall be the duty of that public authority to take each of the steps specified in subsections (3) to (6).
- (2) The duty under subsection (1) does not apply in any case where—
- (a) the service concerned is no longer to be provided nationally, or 10
  - (b) the service concerned is to be provided from premises within the immediate vicinity of the current premises.
- (3) The step specified in this subsection is to publish its proposal to take the action referred to in subsection (1)(a) or (b) (“the proposal”).

- (4) The step specified in this subsection is to undertake an assessment of the social and environmental impact of implementation of the proposal (“the assessment”).
- (5) The step specified in this subsection is to take reasonable measures to consult the persons and bodies specified in subsection (7) about the proposal. 5
- (6) The step specified in this subsection is to give the persons and bodies so consulted an opportunity to make representations about the proposal.
- (7) Those persons and bodies are –
- (a) persons who, in the opinion of the public authority, are likely to be directly affected by implementation of the proposal, 10
  - (b) parish or community councils for areas containing residents who, in the opinion of the public authority, are likely to be directly affected by implementation of the proposal,
  - (c) trades unions whose members include persons for whom the premises to which the proposal relates are their principal place of work, 15
  - (d) businesses which are, in the opinion of the public authority, likely to be directly affected by implementation of the proposal, and
  - (e) organisations which are, in the opinion of the public authority, representative of –
    - (i) the persons specified in paragraph (a), or 20
    - (ii) the businesses specified in paragraph (d).
- (8) In assessing the social impact of implementation of a proposal for the purposes of this section, a public authority shall have particular regard to any adverse impact on –
- (a) persons aged 60 or over, 25
  - (b) lone parents of children aged 17 or under,
  - (c) children,
  - (d) persons on low incomes,
  - (e) persons with disabilities, and
  - (f) persons belonging to ethnic minorities. 30
- (9) In determining the environmental impact of implementation of a proposal for the purposes of this section, a public authority shall have particular regard to any adverse impact on –
- (a) emissions of carbon dioxide and other air pollutants,
  - (b) the volume of road traffic, 35
  - (c) noise pollution, and
  - (d) the environment generally in the vicinity of the premises to which the proposal relates.
- (10) For the purposes of this section and section 2 –
- “act” shall be construed in accordance with the provisions of section 6 of the Human Rights Act 1998 (c. 42) (acts of public authorities); 40
  - “public authority” has the same meaning as in that section;
  - “service” means an act performed by a public authority which is provided to any of the following –
    - (a) members of the public generally, 45
    - (b) a particular class or group of members of the public,
    - (c) businesses generally,

- (d) a particular class or group of businesses,  
but does not include pilot services.

## 2 Actions following assessment and consultations under section 1

- (1) A public authority shall publish any assessment undertaken in accordance with the provisions of section 1(4). 5
- (2) A public authority shall publish a summary of consultations undertaken in accordance with the provisions of section 1(5) and of the representations received under the provisions of subsection (6) of that section.
- (3) It shall be the duty of a public authority which has taken the steps specified in subsections (3) to (5) of section 1 – 10
- (a) to have due regard to the assessment before making a decision,
- (b) to have due regard to representations received as a result of the consultations before making a decision, and
- (c) *(in the event that the decision gives effect in whole or in part to the proposal) to take such measures as it considers appropriate to prevent, reduce the impact of, or ameliorate any adverse effect of the implementation of the decision.* 15
- (4) For the purposes of this section, “a decision” means a decision on whether or not to –
- (a) close premises that provide services, or
- (b) cease to provide a particular service from particular premises, 20
- where the decision relates to the same premises that were the subject of the proposal.

### *Planning applications and local public services*

## 3 Material changes in use affecting services to the public

- (1) The Town and Country Planning Act 1990 (c. 8) is amended as follows. 25
- (2) After section 55 insert –
- “55A Material changes in use affecting services to or amenities for the public**
- In this Act, the making of any material change in the use of any buildings or other land affects services to or amenities for the public where the change would lead to – 30
- (a) significant loss of amenity for a local community, or
- (b) substantial additional costs in enabling the land or buildings to be used for the previous purpose where that purpose was of significant benefit to the local community.” 35
- (3) After section 62(2) (applications for planning permission) insert –
- “(2A) Provision referred to in subsection (1) shall require any application to a local planning authority for planning permission that proposes the making of any material change in the use of any buildings or other land to include such particulars and to be verified by such evidence as may be required by the local planning authority to determine matters 40

relating to material changes in use affecting services to or amenities for the public.”

- (4) After section 69 insert –

**“69A Information relating to material changes in use affecting services to or amenities for the public**

5

Where an applicant is informed by the local planning authority that his application may involve the making of a material change in the use of buildings or other land affecting services to or amenities for the public, the applicant shall –

- (a) give notice of the application to the parish or community council for the area in which the buildings or other land is located, and 10
- (b) publicise the proposed material change in use in a manner prescribed by the local planning authority.”

- (5) After section 70(2) (determination of applications: general considerations) insert – 15

“(2A) In dealing with any such application that involves the making of a material change in the use of buildings or other land affecting services to or amenities for the public, the authority shall have particular regard to any representations by the parish or community council for the area in which the buildings or other land is located or by others relating to the proposed material change in use.” 20

*Closure of private leisure and sports facilities*

**4 Local authorities actions in relation to leisure and sports facilities**

- (1) Where a local authority receives information in whatever form that a relevant leisure or sports facility which is not operated by or on behalf of a public authority may be closed, the local authority – 25
- (a) shall, in the specified circumstances, take appropriate steps to endeavour to prevent the closure; and
- (b) may, in other circumstances, take appropriate steps to endeavour to prevent the closure. 30
- (2) The appropriate steps referred to in subsection (1) may include –
- (a) *the giving of grants to persons or bodies by the local authority,*
- (b) action by the local authority (in agreement with the current operator of the relevant leisure or sports facility) to assist another person or body to operate that facility, and 35
- (c) any other action by the local authority taken in agreement with the current operator of the relevant leisure or sports facility.
- (3) In this section –
- “local authority” includes parish, town and community councils; 40
- “public authority” has the meaning given by section 6 of the Human Rights Act 1998 (c. 42) (acts of public authorities);
- “relevant leisure or sports facility” has the meaning prescribed by regulations made by the Secretary of State;
- “the specified circumstances” means circumstances where – 45

- (a) in the opinion of the local authority, the closure would adversely affect a significant number of residents in its area or would significantly and adversely affect the environment; and
- (b) a significant number of residents in the area of the local authority has formally requested the local authority to take action. 5

*Local food strategies*

## 5 Local food strategies

- (1) The purposes of a local food strategy under this section are – 10
  - (a) to reduce the total number of food miles,
  - (b) to promote local food economies,
  - (c) to reduce local traffic and noise pollution, and
  - (d) to promote more equitable access to local food.
- (2) The appropriate authority shall, within 12 months after the coming into force of this section, prepare and publish a local food strategy. 15
- (3) A local authority may prepare and publish a local food strategy.
- (4) Any authority that has prepared a local food strategy may from time to time prepare and publish a revised strategy.
- (5) Where the appropriate authority prepares a local food strategy, it shall consult any local authority in the area to which the strategy relates. 20
- (6) Any authority that has prepared a local food strategy shall take reasonable steps to secure the implementation of that strategy in the form in which it was most recently published.
- (7) In this section – 25
  - “the appropriate authority” means –
    - (a) in England, the Secretary of State, and
    - (b) in Wales, the National Assembly for Wales;
  - “food miles” means the total distance travelled by food produce from the place of growth or production to the place of retail sale;
  - “a local food economy” means a system whereby the processing and trading of food, including organic food, takes place principally in the area or region where the food was produced. 30

*Local beer delivery*

## 6 Direct delivery of beer to public houses

- (1) This section applies where – 35
  - (a) a public house is not owned by –
    - (i) a brewery, or
    - (ii) the holder of the premises licence in respect of the public house,
 and
  - (b) the conditions in subsections (2) and (3) are met. 40

- (2) The condition in this subsection is that the holder of the premises licence in respect of the public house has satisfied the relevant planning authority that the public house in respect of which he holds the licence is the subject of an exclusive supply obligation entered into by or on behalf of the owner of the public house. 5
- (3) The condition in this subsection is that the relevant planning authority has received a joint proposal from –
- (a) the holder of the premises licence in respect of the public house, and
  - (b) a brewery that is a party to the exclusive supply obligation,
- for beer to be delivered from the brewery concerned directly to the public house concerned (“a proposal for direct delivery”). 10
- (4) Where this section applies and the conditions in subsections (2) and (3) are met, the relevant planning authority shall inform the owner of the public house to which the proposal for direct delivery relates of that proposal.
- (5) Where the owner of a public house is informed of a proposal for direct delivery in accordance with the provisions of subsection (4), it shall be the duty of the owner to – 15
- (a) undertake or cause to be undertaken an assessment of the environmental effects of the proposal,
  - (b) cause a notice to be placed and maintained in a position of prominence within the public house that is accessible to the public summarising the proposal, and 20
  - (c) take such other steps as he considers appropriate to inform interested parties of the proposal.
- (6) Before taking any decisions relating to any renewal or variation of the exclusive supply obligation or to the implementation of a proposal for direct delivery of beer, an owner who has been informed of a proposal for direct delivery shall consider – 25
- (a) the results of the assessment undertaken in accordance with the provisions of subsection (5)(a), 30
  - (b) any representations made about the proposal.
- (7) Where the relevant planning authority is satisfied that the owner of a public house to whom the requirements of subsections (5) and (6) apply has not fulfilled those requirements, the relevant planning authority may instruct the owner in writing to do so. 35
- (8) Where the relevant planning authority is satisfied that the owner of a public house to whom the requirements of subsections (5) and (6) apply is in default of an instruction under subsection (7) without reasonable excuse, the relevant planning authority may take such steps falling within subsection (9) as it considers necessary to secure compliance with those requirements. 40
- (9) Steps fall within this subsection if –
- (a) they are a reasonable and proportionate exercise of the statutory powers of the relevant planning authority, and
  - (b) the relevant planning authority is satisfied that they do not involve any detriment to the holder of the premises licence concerned. 45
- (10) In this section –

- “brewery” has the same meaning as in section 36B(4) of the Alcoholic Liquor Duties Act 1979 (c. 4) (interpretation of provisions relating to small brewery beer);
- “direct delivery” means an arrangement for the delivery of beer to the public house concerned without any intervening delivery to other premises owned by, or operated by or on behalf of, the owner of the public house concerned; 5
- “environmental effects” includes –
- (a) effects relating to the emissions of carbon dioxide and other air pollutants, 10
  - (b) effects on the volume of road traffic, and
  - (c) effects in relation to noise pollution;
- “exclusive supply obligation” means an obligation causing the purchaser to purchase the goods or services specified in the agreement only or principally from one supplier for the purposes of a specific use or for resale; 15
- “interested parties” has the same meaning as in section 13(4) of the Licensing Act 2003 (c. 17) (meaning of interested party);
- “premises licence” means a licence issued in accordance with the provisions of Part 3 of the Licensing Act 2003; 20
- “relevant planning authority” means the local planning authority (within the meaning of section 1 of the Town and Country Planning Act 1990 (c. 8) (local planning authorities: general)) for the area in which the public house concerned is located.

*Miscellaneous and final provisions* 25

**7 Orders and regulations**

- (1) The power conferred by this Act on the Secretary of State to make an order or regulations shall be exercisable by statutory instrument.
- (2) Regulations made under section 4 shall be subject to annulment in pursuance of a resolution of either House of Parliament. 30
- (3) Every power conferred by this Act on the Secretary of State to make an order or regulations includes power –
  - (a) to make different provision for different cases (including different provision in respect of different areas);
  - (b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and 35
  - (c) to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.

**8 Expenses**

- There shall be paid out of money provided by Parliament –* 40
- (a) *any expenditure incurred by the Secretary of State by virtue of this Act; and*
  - (b) *any increase attributable to this Act in the sums payable out of money so provided under any other enactment.*

**9 Short title, commencement and extent**

- (1) This Act may be cited as the Local Services and Facilities Act 2005.
- (2) Sections 1, 2 and 4 to 6 shall come into force –
  - (a) in relation to England, in accordance with provision made by the Secretary of State by order, and 5
  - (b) in relation to Wales, in accordance with provision made by the National Assembly for Wales by order.
- (3) Section 3 shall come into force in accordance with provision made by the Secretary of State by order.
- (4) Before making an order under subsection (3), the Secretary of State shall consult the National Assembly for Wales. 10
- (5) This Act extends to England and Wales only.

# Local Services and Facilities Bill

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To require public authorities to undertake a social and environmental impact assessment and to consult persons or bodies affected before closing premises that provide services or ceasing to provide services from particular premises; to amend the Town and Country Planning Act 1990 in relation to material changes in use affecting services to or amenities for the public; to confer powers on local authorities in connection with the proposed closure of leisure and sports facilities; to make provision about local food strategies; to make provision in connection with the delivery of beer to public houses from local breweries; and for connected purposes.

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