

**Extract from House of Lords**  
**EXPLANATORY NOTES**  
**Localism Bill 2011**

*These notes refer to the Localism Act 2011(c.20)  
which received Royal Assent on 15 November 2011*

## **Chapter 2: Community Right to Challenge**

### ***Section 81: Duty to consider expression of interest***

219. Section 81 requires a relevant authority, defined as including a county council, a district council or a London borough council, to consider an expression of interest submitted by a voluntary or community body, charity, parish council, or employees of the authority in relation to providing or assisting in providing a service provided by or on behalf of the local authority. This section also defines terms used in the rest of this Chapter. The Secretary of State may specify what an expression of interest should contain and which services may be excluded from the Right. The Secretary of State may specify other persons as relevant authorities or relevant bodies and make changes to defined terms and other amendments to Chapter 2 as a consequence.

### ***Section 82: Timing of expressions of interest***

220. Section 82 enables a relevant authority to set out periods when an expression of interest may be submitted. Any such period must be published. Where no period is specified, an expression of interest may be submitted at any time.

### ***Sections 83 and 84: Consideration of expressions of interest***

221. Sections 83 and 84 require a relevant authority that has received an expression of interest to consider it and respond by either accepting it, with or without modification, and running a procurement exercise for the service; or rejecting it on grounds specified by the Secretary of State. Any modification can only be made where the expression of interest would otherwise be rejected and must be agreed by the body submitting it. An authority must notify the body that submitted an expression of interest of their decision, including the reasons where it decides to reject or modify, and publish the notification. The relevant authority must specify minimum and maximum periods between an expression of interest being accepted and it starting a procurement exercise; and the maximum period between an expression of interest being accepted and the relevant body being notified of the decision. The relevant authority must consider how both the expression of interest and the procurement exercise might promote or improve the social, economic or environmental well-being of the authority's area. An expression of interest can be withdrawn by the submitting body at any time.

### ***Section 85: Supplementary***

222. Section 85 allows the Secretary of State to make further provision in regulations about the process to be followed by a relevant authority receiving an expression of interest. A relevant authority exercising functions in relation to Chapter 2 must also have regard to any guidance issued by the Secretary of State.

### ***Section 86: Provision of advice and assistance***

223. Section 86 authorises the Secretary of State to provide advice and assistance in relation to the community right to challenge, either directly or through others. This could include financial assistance to a relevant body, such as a grant or loan, or education and training.

## **Chapter 3: Land of Community Value**

### ***Section 87: Lists of assets of community value***

224. This section places a duty on local authorities in England and Wales to maintain a list of assets of community value. Listed assets will be removed from the list after 5 years (unless already removed) with a power to the appropriate authority (the Secretary of State for England

and the Welsh Ministers for Wales) to amend that period. The local authority can determine the form and content of the list, subject to any specific requirements set out in regulations.

### ***Sections 88 and 105: Land of community value***

225. Section 88 defines land of community value. It also gives a power to set out in regulations types of land that are not of community value and includes a list of factors that may be referred to by the appropriate authority when exercising this power. Section 105 provides that this Chapter applies to the Crown.

### ***Sections 89, 90 and 91: Procedures for including land in list***

226. Section 89 provides that land may only be included on the list in response to a community nomination or where permitted in regulations made by the appropriate authority. It defines community nominations as nominations made by a parish council (in England) or community council (in Wales) or a voluntary or community body with a local connection. It provides for regulations to define voluntary and community body and set out the conditions for “local connection”, to prescribe the contents of community nominations, and to set out procedures that local authorities will be required to follow in considering whether to list. Section 90 requires a local authority to consider a community nomination, and to list the land if it is of community value and in the authority’s area. It also requires the local authority to give a community nominator written reasons for not listing the land. Section 91 requires local authorities to give notice to specified persons of inclusion on or removal from the list together with a description of the statutory provisions, or, where it does not seem to the local authority practical to give notice to a person, to take reasonable alternative steps to bring it to the attention of that person. When notifying parties about the removal of an asset, the reasons for removal must be given.

### ***Section 92: Review of decision to include land in list***

227. This section gives the owner of the land a right to have the decision to list it reviewed by the local authority, specifies what the local authority must do if the review reverses the decision, and provides for the appropriate authority in regulations to set out the procedure for carrying out such reviews. It also includes a power to provide for an appeal against the review decision.

### ***Section 93: List of land nominated by unsuccessful community nominations***

228. This section requires local authorities also to maintain a list of assets that have been nominated unsuccessfully through the community nomination process, and specifies that it should include the reasons why the nomination was unsuccessful. The local authority may (but does not have to) remove land from the list after it has been on it for five years. The local authority can determine the form and content of the list.

### ***Section 94: Publication and inspection of the lists***

229. This section places a duty on local authorities to publish both lists, to make them available for free inspection within its area, and provide one copy, free of charge, to anyone who asks for one.

### ***Sections 95, 96 and 97: Moratorium on the disposal of listed assets***

230. Section 95 prohibits the owner of listed land from entering into a relevant disposal of it except where specified conditions are satisfied. These conditions provide for notification to the local authority by the owner of an intention to make a relevant disposal, and for either a six week interim moratorium or a six month full moratorium (which may be triggered by a community interest group) to apply. They also provide for an eighteen month protected period when no further moratorium will apply. Types of relevant disposals that are exempted from the moratorium conditions are listed, with a power to specify further exemptions in regulations. ‘Community interest group’ is to be defined in regulations. Section 96 defines a relevant disposal as being a disposal with vacant possession of a freehold estate or the grant or assignment with vacant possession of a lease granted for at least 25 years. A power is included to amend the definition. Section 97 specifies what the local authority must do on receiving notice under section 95 from the owner.

### ***Section 98: Informing owner of request to be treated as bidder***

231. This section provides that where an owner has notified the local authority under section 95 of intending to sell, the local authority must as soon as practicable notify the owner of a written request from a community interest group to be treated as a potential bidder if the request is received during the interim moratorium.

### ***Section 99: Compensation***

232. This section gives the appropriate authority power to provide for payment of compensation.

### ***Section 100: Local land charge***

233. This section provides for the listing of an asset of community value to be a local land charge, administered by the listing local authority.

### ***Section 101: Enforcement***

234. Section 101 enables regulations to be made by the appropriate authority in order to reduce or prevent contravention of the provisions.

### ***Section 102: Co-operation***

235. This section specifies that local authorities must co-operate in instances where nominated land falls within different local authority areas.

### ***Sections 103 and 104: Advice and assistance***

236. Section 103 authorises the Secretary of State to do anything the Secretary of State considers appropriate for the purpose of providing advice or assistance to anyone in England in relation to Chapter 3 of Part 5 of the Localism Act. This includes doing anything the Secretary of State considers appropriate for giving advice or the making of arrangements to provide advice or assistance to community interest groups in connection with bidding for, or acquiring, land listed as being of community value (including considering whether to bid and preparing bids); or in connection with considering bringing, or preparing to bring, such land into effective use. Things that may be done under the section include direct financial assistance (such as grants, loans, guarantees or indemnities), or the making of arrangements for such assistance. Section 104 makes parallel provision in relation to assistance by the Welsh Ministers in Wales.

### ***Sections 106 and 107: Definitions***

237. These sections define “local authority” (in England and in Wales) and “owner” for the purposes of this Chapter. For any listed land the owner will be either the freeholder or the qualifying leaseholder most distant from the freeholder. A qualifying leasehold estate must have been granted for at least 25 years. Powers are included for the appropriate authority to amend both definitions.

### ***Section 108: Interpretation of Chapter: general***

238. “Appropriate authority” is defined as meaning the Secretary of State in relation to England, and the Welsh Ministers in relation to Wales. The definition of “land” needs to be read alongside the definition of “land” set out in Schedule 1 to the Interpretation Act 1978.