

CHAPTER No. 18

**LOCAL GOVERNMENT
ACT 2006**

**© Copyright Treasury of the Isle of Man
Crown Copyright reserved**

See introductory page for restrictions on copying and reproduction

LOCAL GOVERNMENT ACT 2006

Arrangement of Sections

Section

Functions of Department in relation to local authorities

1. Technical assistance by Department
2. Standards of performance
3. Acquisition and disposal of land
4. Members of local authorities

Structure of local government

5. Merger of local authorities
6. Arrangements between authorities

Proceedings etc. of local authorities

7. Officers of local authorities
8. Standing orders
9. Standing orders to be made public
10. Minutes

Financial provisions

11. District and special rates
12. Differential rating
13. Borrowing powers
14. Travelling and attendance allowances
15. Reserve funds
16. Destination of fines etc.

Transfer of functions etc.

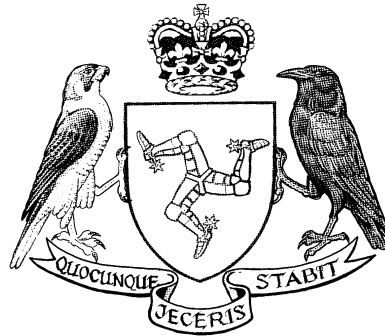
- 17.** Building control
- 18.** Transfer of recreational facilities
- 19.** Amendment of Town and Country Planning Act 1999

Supplemental

- 20.** Amendments and repeals
- 21.** Short title, commencement etc

SCHEDULES

- Schedule 1 — Building control
- Schedule 2 — Transfer of recreational facilities
- Schedule 3 — Amendment of enactments
- Schedule 4 — Enactments repealed or revoked



Isle of Man } Signed in Tynwald: 16th October 2006
 in Wit } Received Royal Assent: 16th October 2006
 Announced to Tynwald: 16th October 2006

AN ACT

to amend certain enactments relating to local government; to make further provision as to local government finance; to amend the Town and Country Planning Act 1999; and for connected purposes.

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows (that is to say):—

Functions of Department in relation to local authorities

1. In section 2 (technical assistance to local authorities) of the Local Government Act 1985, at the end insert —

Technical
assistance by
Department

“(4) The Department may by regulations prescribe —

[c.24]

- (a) the charges to be paid by a local authority to the Department in respect of the expenses incurred by the Department in providing technical assistance to the authority in pursuance of arrangements under subsection (1); and
- (b) the time and manner in which such charges are to be paid.

(5) Before making regulations under subsection (4) the Department shall consult the local authorities concerned.”

Standards of performance

2. (1) After section 4 of the Local Government Act 1985 insert —

“Standards of performance **4A.** (1) The Department may by regulations specify the minimum standards to be achieved by local authorities in the discharge of any functions specified in the regulations.

(2) Regulations under subsection (1) may —

- (a) specify different standards to be achieved by different local authorities; and
- (b) provide that failure by a local authority to achieve a standard specified in the regulations shall constitute a failure by the authority to discharge the functions in question for the purpose of section 5.

(3) Before making regulations under subsection (1) the Department shall consult the local authorities concerned.”

(2) For section 5 (default powers) of that Act substitute —

“Default powers

5. (1) This section applies to —

- (a) functions conferred on a local authority by an enactment by or in relation to which it is provided that this section shall apply, and
- (b) functions to which regulations under section 4A apply.

(2) If the Department is satisfied that a local authority (“the defaulting authority”) has failed to discharge any functions to which this section applies and which the authority ought to have discharged, the Department may make an order transferring such of the functions of the defaulting authority as are specified in the order to —

- (a) the Department, or
- (b) such other local authority as is specified in the order (“the transferee authority”).

(3) An order under subsection (2)(b) may not be made without the consent of the transferee authority.

(4) Before making an order under subsection (2) the Department shall give to the defaulting authority a notice in writing —

- (a) specifying the functions which, in the opinion of the Department, the defaulting authority has failed to discharge, with sufficient particulars of the failure in question,
- (b) stating that the Department proposes to make an order under subsection (2) relating to those functions,
- (c) stating the general effect of the proposed order, and
- (d) inviting the authority to make representations in writing with respect to the proposal within such time (not being less than 28 days after the notice is given) as is specified in the notice;

and shall consider any representations duly made in response to the notice.

(5) An order under subsection (2) may do all or any of the following —

- (a) make such modifications of any statutory provision (whenever made) as appear to the Department to be necessary or expedient to give effect to the transfer of functions;
- (b) provide for the payment by the defaulting authority of any expenses incurred by the Department or transferee authority in discharging those functions, and for the manner in which any such payment is to be defrayed;
- (c) provide for the certification of any expenses referred to in paragraph (b);
- (d) enable the defaulting authority to raise money required for making any payment referred to in paragraph (b);
- (e) enable the Department or transferee authority to make and levy a rate within the district of the defaulting authority to defray the expenses incurred in discharging the transferred functions;

- (f) provide for the transfer to the Department or transferee authority of any staff, property, accommodation, rights, liabilities and obligations of the defaulting authority;
- (g) provide for the modification, in relation to the transferred functions, of any statutory provision relating to the functions of local authorities;
- (h) contain such consequential, incidental, supplemental and transitional provisions as appear to the Department to be necessary or expedient for the purposes of the order.

(6) Where an order under subsection (2) is revoked the Department may, by the revoking order or a subsequent order, make such provision as it considers appropriate with respect to any staff employed, property held, accommodation used, rights enjoyed and liabilities and obligations incurred by the Department or transferee authority for the purposes of the transferred functions.”.

Acquisition
and disposal
of land

3. In section 25 (acquisition and disposal of land) of the Local Government Act 1985, after subsection (2) insert —

“(2A) A consent of the Department under subsection (2) may be either —

- (a) a general consent, relating to any class or description of transactions within subsection (1), or
- (b) a specific consent, relating to a particular transaction within that subsection,

and in either case may be given subject to compliance with such conditions as may be specified in the consent.

(2B) The Department shall lay before Tynwald any general consent under subsection (2).”.

Members
of local
authorities

4. (1) In section 10 of the Local Elections Act 1986, at the end insert —

[c.10]

“(5) Within 14 days after the expiration of the period of one month referred to in subsection (1), the authority shall send to the Department a list of the names and addresses of the members of the authority.”.

(2) In section 15 (casual vacancies) of that Act, at the end insert —

“(3) The local authority shall forthwith send to the Department a copy of every notice under subsection (2).”.

Structure of local government

5. After section 6 of the Local Government Act 1985 insert —

Merger
of local
authorities

“Merger
of local
authorities

6A. (1) The Department may, with the consent of the local authorities for 2 or more districts, by order —

- (a) unite the districts of those authorities (“the former authorities”) as a single local government district (“the new district”);
- (b) dissolve the former authorities; and
- (c) establish a local authority for the new district.

(2) An order under this section shall —

- (a) state whether the new district is to be a town district, village district or parish district; and
- (b) provide for the number of members of the local authority for the new district, and the election and terms of office of such members.

(3) An order under this section may include provision for —

- (a) the division of the new district into wards;
- (b) the retirement, election or appointment of members of any existing joint board, joint committee or other public body in any area affected by the order;
- (c) the dissolution of any such body;
- (d) the alteration or abolition of any special district affected by the order;
- (e) the transfer to the local authority for the new district of any staff of the former authorities and any body dissolved under paragraph (c);

- (f) the vesting in the local authority for the new district of any property, rights, liabilities and obligations of the former authorities and any body dissolved under paragraph (c);
 - (g) the adjustment of any assets and liabilities not provided for under paragraph (f) between any local authorities, joint boards, joint committees and other public bodies in any area affected by the order, in such manner as may be provided for by the order;
 - (h) the determination by the Department of any matter arising in connection with the subject-matter of the order;
 - (i) making such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or proper for the purposes of the order.
- (4) Without prejudice to subsection (3), an order under this section may —
- (a) make temporary provision, for such period (not exceeding 10 years) as is specified in the order, authorising or requiring different rates to be levied by the local authority for the new district within the districts of the former authorities;
 - (b) constitute such part of the new district as may be specified in the order a special district for the purpose of charging on it exclusively any expenses of the local authority for the new district;
 - (c) alter the boundary of any constituency which comprises any district or any part of a district affected by the order;
 - (d) make transitional provision with respect to the preparation of registers of electors for any constituency, district or ward affected by the order;
 - (e) provide for any byelaw applying to a district or area affected by the order to apply to any other district or area so affected, or to any part of such a district or area;

- (f) amend or repeal any enactment which appears to the Department to be inconsistent with, or to have become unnecessary or to require modification in consequence of, the order.

(5) An order under this section shall not have effect unless it is approved by Tynwald.”.

6. (1) In section 17 (arrangements for discharge of functions) of the Local Government Act 1985, after subsection (4) insert — Arrangements
between
authorities

“(4A) Subject as aforesaid, a local authority may, with the consent of the Department, enter into arrangements with any other local authority for the discharge by the latter authority of any of the functions of the former authority.

(4B) The consent of the Department under subsection (4) or (4A) may be given subject to compliance with such conditions as may be specified in the consent.”.

(2) After section 24 of that Act insert —

“Sharing of
premises
and
facilities **24A.** (1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority (“the provider authority”) may, with the consent of the Department, enter into arrangements with any other local authority (“the user authority”) for the use —

- (a) by the user authority,
- (b) by residents of the district of the user authority, or
- (c) by members, officers or employees of the user authority,

of any buildings, premises or facilities to which this section applies, on such terms, and subject to the payment of such charges, as are specified in the arrangements.

(2) This section applies to any of the following which are, or are intended to be, provided by the provider authority —

- (a) any buildings or premises referred to in section 24;

[c. 1]

- (b) any recreational facilities or entertainment facilities (within the meaning of the Recreation and Leisure Act 1998);
- (c) any library or museum established under the 1916 Act;
- (d) any other buildings, premises or facilities, or any class or description of buildings, premises or facilities, specified for the purpose of this subsection by an order made by the Department.

(3) The consent of the Department under subsection (1) may be given subject to compliance with such conditions as may be specified in the consent.”.

Proceedings etc. of local authorities

Officers of
local
authorities

7. (1) In section 21 (officers) of the Local Government Act 1985, for subsections (2) and (3) substitute —

“(2) A local authority may appoint such other officers as it thinks necessary for the efficient discharge of its functions.

(3) Every appointment by a local authority under subsection (1) shall be subject to the approval of the Department.

(3A) Without prejudice to subsection (3), where regulations under section 12(5) of the Audit Act 2006 require a local authority to appoint or nominate an officer for any purposes specified in the regulations, the appointment or nomination shall be subject to the approval of the Department.”.

(2) In section 23 (disclosure by officers of interest in contracts) of that Act, for subsections (1) and (2) substitute —

“(1) If it comes to the knowledge of an officer appointed or employed, whether under this or any other enactment, by a local authority that —

- (a) a contract in which the officer has any pecuniary interest, whether direct or indirect (not being a contract to which he or she is himself or herself a party), has been, or is proposed to be, entered into by the authority, or

- (b) any other matter in which the officer has such an interest is under consideration by the authority,

the officer shall as soon as practicable give notice in writing to the authority of the fact that he or she is interested in it.

(2) For the purposes of this section an officer shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter if he or she would have been so treated by virtue of section 12 had he or she been a member of the authority.”.

8. (1) Section 27 (standing orders) of the Local Government Act 1985 is amended as follows. Standing orders

- (2) For subsections (1) and (2) substitute —

“(1) A local authority shall, subject to the provisions of this Act, make standing orders for the regulation of the proceedings and business of the authority and of any committee of the authority.

(2) Where a joint committee of 2 or more local authorities is established (whether under this or any other enactment), those authorities shall, subject to the provisions of this Act, make standing orders for the regulation of the proceedings and business of the committee.”.

- (3) After subsection (6) insert —

“(7) Where a local authority or committee —

- (a) in exercise of any powers conferred by its standing orders, suspends the standing orders or any provision of them, or
- (b) acts (or omits to act) in contravention of its standing orders,

then, unless the Department otherwise directs, the authority (in the case of a local authority or a committee of the authority) or the joint committee (in the case of a joint committee) shall cause particulars of the suspension or contravention, and the reasons for it, to be recorded in a book to be kept for the purpose.

(8) The book kept under subsection (7) shall at all reasonable hours be open to the inspection of —

- (a) any local government elector for the district of the authority or, in the case of a joint committee, the district of any of the constituent authorities, and
- (b) any person authorised for the purpose by the Department,

and any such elector or authorised person may make a copy of or extract from the book.

(9) A copy of the standing orders of a local authority or joint committee shall be open to the inspection of any person —

- (a) at all reasonable hours, at the principal office of the authority or committee, and
- (b) at any time when the authority or a committee of the authority, or the joint committee, is meeting in public, in the room where the meeting is taking place.

(10) References in this section to a committee or joint committee include references to a sub-committee.”.

Standing orders to be made public

9. After section 27 of the Local Government Act 1985 insert —

“Standing orders to be made public

27A. (1) Standing orders made or having effect as if made under section 27 shall be public documents and accordingly shall be made available for inspection or copying by any member of the public during —

- (a) normal office hours of the local authority or committee; and
- (b) any public meeting of the local authority or committee.

(2) It shall be the duty of a local authority or committee to comply with subsection (1).”.

Minutes

10. In section 34 (inspection of minutes) of the Local Government Act 1985 —

- (a) at the beginning insert “(1)”; and
- (b) at the end insert —

“(2) The Department may by notice in writing to a local authority require the authority to supply to the Department copies of the minutes of any proceedings specified in the notice of —

- (a) the authority;
- (b) any committee or sub-committee of the authority which is so specified; or
- (c) any joint committee established by the authority and one or more other local authorities which is so specified (including any sub-committee of that committee);

and the local authority shall comply with any such requirement.”.

Financial provisions

11. (1) A local authority shall in every financial year levy and charge on all hereditaments in its district liable to rates a rate (a “district rate”) for defraying its expenses, other than expenses referred to in subsection (2). District and special rates

(2) Where part of a local authority’s district is constituted a special district for the purpose of charging on it exclusively the expenses of the exercise of certain functions by the authority with respect to the special district, the authority shall in every financial year levy and charge on all hereditaments in the special district liable to rates a rate (a “special rate”) for defraying those expenses.

- (3) A district rate or special rate shall consist of either —
- (a) a sum according to the valuation for the time being in force for rating purposes, or
 - (b) a fixed amount levied in respect of each hereditament and a further sum according to the valuation for the time being in force for rating purposes.

(4) A district rate or special rate shall be fixed not later than the 31st January next before the beginning of the financial year in which it is levied, and shall be due and payable to the local authority in advance on the 1st April in that year.

(5) The amount of any district rate or special rate shall not, without the consent in writing of the Department, exceed such amount as may be prescribed by order of the Department with respect to the district or special district.

- (6) An order under subsection (5) —
- (a) may prescribe different amounts in relation to sums according to valuation and fixed amounts as mentioned in subsection (3);
 - (b) shall not apply to a rate levied in any financial year unless it is made not later than the 30th September next before the beginning of that year; and
 - (c) shall be laid before Tynwald at the next sitting after the date on which it is made.

[XVIII p.258] (7) Section 50(2) of the Rating and Valuation Act 1953 (liability of occupiers and owners) applies to a district rate or special rate.

- (8) In this section —
- “expenses” includes past and future expenses;
- “financial year” means a year commencing on 1st April.

Differential rating **12.** On the appointed day the following provisions shall cease to have effect —

- [XVIII p. 34] (a) section 10 of the Douglas Extension of Boundaries Act 1952;
- [XX p.36] (b) section 4 of the Castletown Town Act 1966;
- [c. 6] (c) section 7 of, and the Schedule to, the Douglas Extension of Boundaries Act 1985;
- [c. 8] (d) section 4 of the Onchan District Act 1986;
- [c. 2] (e) section 1 of the Ramsey (Boundary Extension) Act 1993.

Borrowing powers **13.** (1) In section 51 (borrowing powers) of the Local Government Act 1985 —

- (a) in subsection (2), for “approval” substitute “consent”;
- (b) after subsection (2) insert —
 - “(2A) A consent of the Department under subsection (2) may be either —
 - (a) a general consent, relating to any class or description of transaction within subsection (1), or

- (b) a specific consent, relating to a particular transaction within that subsection,

and in either case may be given subject to compliance with such conditions as may be specified in the consent.

(2B) A general consent under subsection (2A) shall not have effect unless it is approved by Tynwald.

(2C) If a local authority fails to comply with any condition imposed under subsection (2A), the Department may apply to the High Court for an order enforcing compliance with it.”.

- (2) After subsection (4) of that section insert —

“(4A) The Department may by regulations provide that the foregoing provisions of this section shall apply, subject to such modifications as may be specified in the regulations, to any class or description of transactions so specified, being transactions (other than the borrowing of money or a transaction within section 25(1)) which are entered into by a local authority and by virtue of which the authority is, or will be or may become, liable to pay money to any person.”.

- 14.** (1) The following provisions of Schedule 2 (travelling and attendance allowances) to the Local Government Act 1985 shall cease to have effect —

Travelling
and
attendance
allowances

- (a) paragraph 1;
- (b) in paragraph 6(1), the words “in respect of which a resolution under paragraph 1 is passed”.

(2) In paragraph 7 of that Schedule, in the definition of “designated body”, after “means a body” insert “(other than a joint board)”.

- (3) In Schedule 3 to that Act (application to joint boards) —

(a) for “Section 10(1)” substitute “Section 10”;

(b) after the entry relating to Schedule 1 insert —

“Schedule 2. In paragraph 7, omit head (c) of the definition of “approved duty”, and the definition of “designated body”.”.

Reserve funds **15.** In section 43 (other funds) of the Local Government Act 1985 —

- (a) in subsection (2), for “subsection (3)” substitute “subsections (3) and (3A)”;
- (b) after subsection (3) insert —

“(3A) The Department may from time to time direct that a fund established by a local authority as a reserve shall not exceed such amount as may be specified in the direction; and where such a fund exceeds any amount for the time being so specified, the authority shall take such steps as may be necessary to reduce the amount of the fund accordingly.

(3B) The Department shall lay before Tynwald any direction under subsection 3A.”.

Destination of fines etc. **16.** (1) In section 1 of the Collection of Fines etc. Act 1985 —

[c. 7]

- (a) in subsection (2), for “subsection (3)” substitute “subsections (2A) and (3)”;
- (b) after subsection (2) insert —

“(2A) In the case of a conviction for an offence to which this subsection applies and which is prosecuted at the suit of —

- (a) a local authority, or
- (b) an officer of a local authority,

the Chief Registrar shall pay to the local authority any sum referred to in subsection (1)(a) or (d).

(2B) Subsection (2A) applies to an offence consisting of a contravention of —

- (a) a byelaw made by a local authority; or
- (b) an enactment prescribed for the purpose of that subsection by an order made by the Treasury.

(2C) Before making an order under subsection (2B)(b) the Treasury shall consult the Department of Local Government and the Environment; and such an order shall not have effect unless it is approved by Tynwald.

(2D) In subsections (2A) and (2B) “local authority” includes a joint board.”.

(2) In section 5A of the Litter Act 1972, for subsection (5) substitute — [c.14]

“(5) Payment of a fixed penalty under this section shall be made —

- (a) where the notice under this section was given by a constable, to the Chief Registrar, to be applied as a fine imposed by a criminal court;
- (b) otherwise, to the local authority concerned.”

(3) Nothing in this section applies in the case of an offence, a prosecution for which was commenced or a notice relating to which was given before the coming into operation of this section.

Transfer of functions etc.

17. (1) With effect from the appointed day the functions of any local authority as building authority under the Building Control Act 1991 shall be transferred to and exercisable by the Department. [c.21]

Building control

(2) Schedule 1 shall have effect for the purpose of the transfer of functions effected by subsection (1).

18. (1) With effect from the appointed day the recreational facilities provided by the following bodies — [c.21]

Transfer of recreational facilities

- (a) the Northern Swimming Pool Board,
- (b) the Western Swimming Pool Board, and
- (c) the Southern Swimming Pool Board,

shall be transferred to and vest in the Department of Tourism and Leisure.

(2) Schedule 2 shall have effect for the purpose of the transfer effected by subsection (1).

19. After section 23 of the Town and Country Planning Act 1999 insert — [c.9]

Amendment of Town and Country Planning Act 1999

“Breach of conditions **23A.** (1) Any person who fails to comply with, or causes or permits another to fail to comply with, any

[c.9]

condition subject to which planning approval was granted (whether before or after the date on which this section comes into operation) is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(2) Subsection (1) does not apply in respect of failures that occur before the date on which this section comes into operation.

(3) Subsection (1) is without prejudice to section 23(2) and to any other means of enforcing planning control in accordance with this Part.

(4) An offence under subsection (1) may be charged by reference to any day or longer period of time and a person may be convicted of a second or subsequent offence under that subsection by reference to any period of time following the preceding conviction for such an offence.

(5) In proceedings against a person for an offence under subsection (1) it shall be a defence for that person to show that he or she —

- (a) did not know of the condition with which he or she is alleged to have failed to comply; and
- (b) could not reasonably have been expected to know of that condition.

(6) In proceedings against a person for an offence under subsection (1) it shall be a defence for that person to show that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.

(7) A person shall not be entitled to rely on the defence provided by subsection (6) by reason of his or her reliance on information given by another unless the court is satisfied that it was reasonable in all the circumstances for that person to have relied on the information, having regard in particular —

- (a) to the steps taken, and those which might reasonably have been taken, for the purpose of verifying the information, and
- (b) to whether that person had any reason to disbelieve the information.

(8) Where in any proceedings for an offence under subsection (1) the defence provided by subsection (6) involves an allegation that the commission of the offence was due to reliance on information given by another, the person shall not, without the leave of the court, be entitled to rely on the defence unless that person served a notice under subsection (9) on the Department not less than 7 clear days before the hearing of the proceedings.

(9) A notice under this subsection shall give such information identifying or assisting in the identification of the person who gave the information, as is in the possession of the person serving the notice at the time he serves it.

(10) For the avoidance of doubt, paragraph 3 of Schedule 8 (planning approvals before commencement of Part 2) has effect in respect of this section.”.

Supplemental

20. (1) The enactments specified in Schedule 3 are amended in accordance with that Schedule. Amendments
and repeals

(2) The enactments specified in Schedule 4 are repealed or revoked, as the case may be, to the extent specified in column 3 of that Schedule.

21. (1) This Act may be cited as the Local Government Act 2006. Short title,
commencement
etc.

(2) This Act shall come into operation on such day or days as the Department may by order appoint; and an order under this subsection may make such consequential, incidental, supplemental and transitional provisions as appear to the Department to be necessary or expedient for the purposes of the order.

(3) In this Act —

“the appointed day”, in any provision of this Act (except Schedule 1 or 2), means the day appointed under subsection (2) in relation to that provision;

“the Department” means the Department of Local Government and the Environment.

Section 17(2).

SCHEDULE 1

BUILDING CONTROL

Interpretation

1. In this Part —

“the appointed day” means the day appointed under section 19(2) for the coming into operation of section 16(1);

“building control functions” means the functions of a building authority under the Building Control Act 1991;

“local building authority” means any local authority which immediately before the appointed day is a building authority for the purposes of that Act.

Transfer of property

2. (1) All personal property which immediately before the appointed day is vested in or held by a local building authority for the purpose of its building control functions shall on that date vest in the Department without any conveyance or other assurance for the purpose of its building control functions.

(2) If any question arises whether any property, which immediately before that date was vested in or held by the local building authority, was so vested or held for the purpose of its building control functions, the question may be referred by the local building authority or the Department, or by any other interested person, to the High Court.

(3) On a reference under sub-paragraph (2) the High Court, after giving the local building authority, the Department and any other interested person an opportunity to be heard, may declare that the property in question was or was not vested or held as mentioned in that sub-paragraph.

(4) A declaration under sub-paragraph (3) shall be conclusive and binding for all purposes and on all persons, except a purchaser for money or money's worth of an interest in the property by virtue of a transaction entered into or taking effect before the reference was made, and persons deriving title under such a purchaser.

Transfer of rights etc.

3. (1) All rights, obligations and liabilities which immediately before the appointed day are enforceable by or against a local building authority and are enjoyed or incurred for the purpose of its building control functions shall on and after that date be enforceable by or against the Department.

(2) All references to the local building authority, so far as they relate to its building control functions and not otherwise, in any agreement, deed, instrument, licence, consent, application, notice or other document shall, unless the context otherwise requires, be construed as references to the Department.

(3) This Schedule does not affect the validity of anything done by or in relation to a building authority before the appointed day; and anything which on

that date is in process of being done by or in relation to a local building authority, so far as it relates to any of its building control functions, may be continued by or in relation to the Department. SCH. 1

(4) Anything made or done by a local building authority, so far as it relates to any of its building control functions, shall, if in force on the appointed day, have effect as if made or done by the Department so far as that is required for continuing its effect after the appointed day.

Transfer of staff

4. (1) Subject to any direction under sub-paragraph (2) or (3), any person who is immediately before the appointed day employed by a local building authority wholly or mainly for or in connection with its building control functions shall on the appointed day become employed by the Department without further appointment on and subject to the like terms and conditions as those on and subject to which he or she was employed immediately before the appointed day.

(2) Where a person referred to in sub-paragraph (1) was not employed by the local building authority immediately before the 1st October 2005, the Civil Service Commission may direct that sub-paragraph (1) shall not apply to that person, or shall apply to him or her subject to such modifications as are specified in the direction.

(3) The Civil Service Commission may direct that, in relation to any person referred to in sub-paragraph (1) who was employed by the local building authority immediately before the 1st October 2005, that sub-paragraph shall have effect with the substitution for “the appointed day” (in the second place) of such date (not being earlier than 1st October 2005) as is specified in the direction.

(4) Any question —

- (a) whether a person is employed as mentioned in sub-paragraph (1), or
- (b) as to the terms and conditions on and subject to which he or she was employed as mentioned in that sub-paragraph,

shall be referred to and determined by the Civil Service Commission.

(5) The Civil Service Commission shall, before or as soon as is practicable after the appointed day, give directions with respect to the superannuation of persons referred to in sub-paragraph (1) to whom a scheme under section 8 (local government) of the Superannuation Act 1984 applied immediately before that date. [c. 8]

(6) Directions under sub-paragraph (5) shall secure that, at the election of a person to whom sub-paragraph (1) applies —

- (a) the scheme referred to in sub-paragraph (5) shall continue to apply to him or her, or
- (b) such scheme under section 1 (civil servants etc.) of the said Act of 1984 as is specified in the directions shall apply to him or her;

and those schemes shall have effect subject to any such directions.

SCH. 1

(7) Before giving any direction under sub-paragraph (5) the Civil Service Commission shall consult the Department, the Treasury, the local building authority (if practicable) and such organisations (if any) as appear to the Department to be representative of persons to whom sub-paragraph (1) applies.

Provision of information

5. (1) Every local building authority shall provide to the Department such information as the Department may require relating to —

- (a) any personal property vested in or held by the authority for the purpose of its building control functions;
- (b) any rights, obligations and liabilities enforceable by or against the authority or for the purpose of those functions;
- (c) any persons employed by the authority for the purpose of those functions, and the terms and conditions on and subject to which they are employed;
- (d) any legal proceedings pending by or against the authority in connection with those functions;
- (e) any action taken by the authority in the exercise of those functions.

(2) The Department may require a local building authority to allow a person authorised for the purpose by the Department, on production of his or her authorisation, to inspect and take copies of any books, records, accounts or other documents in the possession or under the control of the authority and relating to its building control functions.

(3) Any person authorised as mentioned in sub-paragraph (2) —

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in used in connection with the records or accounts in question; and
- (b) may require the person by whom or on whose behalf the computer is or has been used, or any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford him or her such assistance as he or she may reasonably require.

(4) If a local building authority fails to comply with a requirement under sub-paragraph (1) or (2), the Department may apply to the High Court for an order enforcing compliance with the requirement.

Section 18(2).

SCHEDULE 2

TRANSFER OF RECREATIONAL FACILITIES

Interpretation

1. In this Schedule —

“the appointed day” means the day appointed under section 19(2) for the coming into operation of section 17(1);

“board” means the Northern Swimming Pool Board, the Western Swimming Pool Board or the Southern Swimming Pool Board;

“the Tourism Department” means the Department of Tourism and Leisure.

Dissolution of boards

2. On the appointed day each board shall be dissolved.

Transfer of staff

3. (1) Subject to any direction under sub-paragraph (2) or (3), any person who is immediately before the appointed day employed by a board shall on that day become employed by the Tourism Department without further appointment on and subject to the like terms and conditions as those on and subject to which he or she was employed immediately before the appointed day.

(2) Where a person referred to in sub-paragraph (1) was not employed by a board immediately before the 1st October 2005, the Civil Service Commission may direct that sub-paragraph (1) shall not apply to that person, or shall apply to him or her subject to such modifications as are specified in the direction.

(3) The Civil Service Commission may direct that, in relation to any person referred to in sub-paragraph (1) who was employed by the board immediately before the 1st October 2005, that sub-paragraph shall have effect with the substitution for “the appointed day” (in the second place) of such date (not being earlier than 1st October 2005) as is specified in the direction.

(4) Any question —

(a) whether a person is employed as mentioned in sub-paragraph (1), or

(b) as to the terms and conditions on and subject to which he or she was employed as mentioned in that sub-paragraph,

shall be referred to and determined by the Civil Service Commission.

(5) The Civil Service Commission shall, before or as soon as is practicable after the appointed day, give directions with respect to the superannuation of persons referred to in sub-paragraph (1) to whom a scheme under section 8 (local government) of the Superannuation Act 1984 applied immediately before that date.

(6) Directions under sub-paragraph (5) shall secure that, at the election of a person to whom sub-paragraph (1) applies —

- SCH. 2
- (a) the scheme referred to in sub-paragraph (5) shall continue to apply to him or her, or
 - (b) such scheme under section 1 (civil servants etc.) of the said Act of 1984 as is specified in the directions shall apply to him or her;

and those schemes shall have effect subject to any such directions.

(7) Before giving any direction under sub-paragraph (5) the Civil Service Commission shall consult the Tourism Department, the Treasury, the board (if practicable) and such organisations (if any) as appear to the Commission to be representative of persons to whom sub-paragraph (1) applies.

Transfer of property etc.

[c. 1] **4.** (1) All real and personal property which immediately before the appointed day was vested in or held by the board shall on that date vest in the Tourism Department without any conveyance or other assurance for the purpose of its functions under the Recreation and Leisure Act 1998.

(2) All rights, obligations and liabilities which immediately before the appointed day were enforceable by or against a board shall on and after such coming into operation be enforceable by or against the Tourism Department.

(3) All references to the board in any statutory provision, agreement, deed, instrument, licence, consent, application, notice or other document whatsoever shall, unless the context otherwise requires, be construed as references to the Tourism Department.

(4) This Schedule shall not affect the validity of anything done by or in relation to the board before the appointed day; and anything which on that date is in process of being done by or in relation to the board may be continued by or in relation to the Tourism Department.

(5) Anything made or done by the board shall, if in force on the appointed day, have effect as if made or done by the Tourism Department so far as that is required for continuing its effect after that date.

Provision of information

5. (1) Every board shall provide to the Tourism Department such information as that Department may require relating to —

- (a) any property vested in or held by the board;
- (b) any rights, obligations and liabilities enforceable by or against the board;
- (c) any persons employed by the board, and the terms and conditions on and subject to which they are employed;
- (d) any legal proceedings pending by or against the board.

(2) The Tourism Department may require a board to allow a person authorised for the purpose by that Department, on production of his or her

authorisation, to inspect and take copies of any books, records, accounts or other documents in the possession or under the control of the board. SCH. 2

(3) Any person authorised as mentioned in sub-paragraph (2) —

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in used in connection with the records or accounts in question; and
- (b) may require the person by whom or on whose behalf the computer is or has been used, or any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford him or her such assistance as he or she may reasonably require.

(4) If a board fails to comply with a requirement under sub-paragraph (1) or (2), the Tourism Department may apply to the High Court for an order enforcing compliance with the requirement.

Section 20(1).

SCHEDULE 3

AMENDMENT OF ENACTMENTS

Local Government Consolidation Act 1916 (X p.57)

1. In section 7, at the end insert —

“(7) This section and section 8 have effect subject to any order under Part II of the Local Government Act 1985.”.

Building Control Act 1991(c.21)

2. (1) In section 1, at the end insert —

“(4) It is the duty of the Department to enforce building regulations.”.

(2) In section 35(1), for the definition of “area” substitute —

““building authority” means the Department;”.

Section 20(2).

SCHEDULE 4

ENACTMENTS REPEALED OR REVOKED

<i>Reference</i>	<i>Title or short title</i>	<i>Extent of repeal or revocation</i>
X p.57	Local Government Consolidation Act 1916.	Section 16. Sections 67 and 68. Sections 353 to 356.
XVI p.344	Local Government Act 1946.	In section 24, the words “or local authority” (in each place).
XVII p.444	Local Government Act 1949.	The whole Act.
XVII p.829	Local Government Act 1950.	Section 5.
XVIII p.34	Douglas Extension of Boundaries Act 1952.	Section 10.
XX p.36	Castletown Town Act 1966.	Section 4.
1976 c.6	Local Government (Miscellaneous Provisions) Act 1976.	Entry 9 of Schedule 4.
1984 c.5	Local Government (Miscellaneous Provisions) Act 1984.	Section 13.
1985 c.6	Douglas Extension of Boundaries Act 1985.	Section 7. The Schedule.
1985 c.24	Local Government Act 1985.	Section 4(2). In section 6(1), the words “town district or village”. In Schedule 2, paragraph 1 and, in paragraph 6(1), the words “in respect of which a resolution under paragraph 1 is passed”.
1986 c.8	Onchan District Act 1986.	Section 4.
1990 c.16	Dogs Act 1990.	Section 27B.
1991 c.21	Building Control Act 1991.	In section 6(1), the words “, after consultation with the building authority (if different),”.

SCH. 4

Section 7(2).

In sections 9(3) and 10(3),
the words “every building
authority and”.

Section 13(1) and (2).

Section 34.

1993 c.2	Ramsey (Boundary Extension) Act 1993.	The whole Act.
SD 574/99	Western Swimming Pool Board Order 1999.	The whole Order.
SD 609/00	Southern Swimming Pool Board Order 2000.	The whole Order.
SD 610/00	Northern Swimming Pool Board Order 2000.	The whole Order.
SD 611/00	Western Swimming Pool Board (Amendment) Order 2000.	The whole Order.
2003 c.14	Local Government (Miscellaneous Provisions) Act 2003.	Section 2.