

Get in on the Act

Deregulation Act 2015

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Background

The Deregulation Bill was introduced in the House of Commons on 23 January 2014, completed its parliamentary stages on 16 March 2015 and received Royal Assent, becoming law, on 26 March 2015.

The Deregulation Act 2015 (the Act) provides for the removal or reduction of burdens on businesses, civil society, individuals, public sector bodies and the taxpayer. These include measures relating to general and specific areas of business, companies and insolvency, the use of land, housing, transport, communications, the environment, education and training, entertainment and alcohol, public authorities and the administration of justice. In addition, the Act repeals legislation that is no longer of any practical use.

The Act is made up of 17 parts as follows:

1. **Measures affecting the workplace: general**
2. **Measures affecting business: particular areas**
3. **Companies and insolvency**
4. **Use of land**
5. **Housing and development**
6. **Transport**
7. **Communications**
8. **The environment etc**
9. **Regulation of child trust funds**

10. **Education and training**
11. **Alcohol, sport and entertainment**
12. **Administration of justice**
13. **Other measures to reduce burdens on public authorities**
14. **Legislative reform**
15. **Legislation no longer of practical use**
16. **Exercise of regulatory functions**
17. **General**

From the outset, the Local Government Association (LGA) worked with Members of both Houses of Parliament, ministers and stakeholders to raise issues of concern to local government. The draft Bill was subject to pre-legislative scrutiny by a Joint Committee to which the LGA submitted written evidence and was invited to give oral evidence.

This publication aims to provide readers with an introduction to the Act and summarises the main issues on which the LGA campaigned.

The role of the LGA and local government in influencing the legislation

On behalf of local government, the LGA played a key role in influencing the legislation during its passage through Parliament. As well as proposing many amendments and new clauses which drew attention to the LGA's concerns with various aspects of the Bill, our key successes were:

- campaigning for the Government to drop a measure in the Bill which would have enabled anyone to drive an off duty licensed private hire vehicle (PHV)
- influencing the Government to grant exemptions to the ban on the use of CCTV to enforce parking restrictions near schools, in bus lanes, at bus stops or on red routes.

The key provisions and their implications for local government

Taxis and Private Hire Vehicles

During the passage of the Bill, the Government introduced a clause which would have allowed people without a PHV driver licence to drive a licensed PHV when it was 'off-duty'. This would have meant that passengers could no longer be sure that the person driving a PHV was a properly vetted and licensed driver. Alongside the Suzy Lamplugh Trust, children's charities, police and crime commissioners and driver associations, we repeatedly raised concerns that the measure would put passengers, particularly women, children and disabled people, at risk. The Government's announcement that it would delete the clause from the Bill, acknowledging the safety concerns it posed, was a significant success.

Section 10 of the Bill extends the standard duration of a taxi or PHV licence to three years. The LGA supported this proposal in principle as it has the effect of reducing

burdens for law-abiding firms and drivers who provide a quality service. However, we raised concerns that it was being introduced without first addressing the existing gaps in vetting drivers. The LGA briefed the Government on the importance of councils being able to check drivers against the barred lists and the police sharing information about criminal investigations into drivers.

Section 11 allows minicab firms to sub-contract bookings to firms licensed in a different district. Previously, sub-contracting could only take place between firms licensed in the same district. The LGA strongly opposed the clause on the grounds that it had been brought forward without the accompanying safeguards deemed necessary by the Law Commission's review of taxi licensing. For example, a requirement for the firm with whom the booking is made to advise the customer if it is being sub-contracted.

The LGA proposed amendments which would mitigate against the risk of subcontracting. These would have required the consent of the hirer before passing on the booking and allowed a licensing authority to exercise its powers over a licensed PHV or taxi operating in their area, even if the licence was issued by another licensing authority. After a vote, these amendments were unfortunately taken no further. However, the Government said it would continue to work on a programme of reform based on the Law Commission's full report.

The LGA intends to lobby the next government to bring forward a reform bill based on the Law Commission's report at the earliest opportunity.

Housing and development

Section 28 relaxes the eligibility criteria for the Right to Buy by reducing the qualifying period as a public sector tenant from five to three years. There is no change in the discounts available to tenants under the scheme.

The LGA called on the Government to take this opportunity to reform the current operational arrangements for Right to Buy which undermine the ability of local authorities to

replace housing sold under the scheme with much-needed affordable new homes.

We proposed additional new clauses that would allow for direct and full retention of Right to Buy receipts and greater flexibility over how they are used which would enable additional reinvestment in new affordable housing. Currently, money can only be retained locally once the Treasury has received the predicted amount of receipts.

The LGA also took the opportunity afforded by the Bill to propose a new clause which would remove the housing borrowing cap, aligning council borrowing for housing with the wider approach to local government borrowing. This amendment, which was supported by a large number of housing stakeholders, would allow councils to meet local housing need and demand. The LGA continues to seek every opportunity to call for the removal of the borrowing cap.

Section 33 prevents ‘retaliatory eviction’. This is where private landlords, when faced with a request for repairs, serve their tenants with a section 21 notice in order to terminate the tenancy. Section 21 of the Housing Act 1988 offers landlords a means of terminating a shorthold tenancy without having to give a reason or prove fault on the part of the tenant. The new provisions prevent private landlords from issuing tenants with a section 21 notice if there is evidence that repairs are required to the property.

Clauses preventing retaliatory eviction originally formed part of a Private Members’ Bill entitled the Tenancies (Reform) Bill. The latter, although failing to complete its passage through Parliament, secured Government support and a ‘Preventing retaliatory eviction’ clause was added to the Deregulation Bill in the House of Lords. The LGA publicly supported this change in the law which encourages tenants to report problems with the condition of their property.

Enforcement of parking contraventions

Section 52 provides the Secretary of State with an enabling power that allows for the prohibition of CCTV in connection with parking enforcement, with the possibility of setting out exemptions in guidance. The LGA was extremely concerned about the safety implications of the ban as CCTV has an essential role in enforcing parking restrictions near schools, in bus lanes, at bus stops or on red routes. Alongside schools and disability groups, we called on the Government to include exemptions for these cases within the legislation, rather than guidance.

As a result of our campaigning, the Government announced that, in circumstances where there was a strong safety argument, the ban would not apply. The Government permitted the use of CCTV in restricted areas outside a school, on a red route or clearway, in bus lanes or at restricted bus stops or stands.

We continued to call for these exemptions to be enshrined within the legislation to ensure clarity and for further exemptions to be applied to no-stopping zones around pedestrian crossings on the same safety grounds. LGA proposed amendments to this effect which were tabled in the House of Lords. Although they gathered cross-party support from peers, the Government confirmed that further exemptions would be set out in guidance.

Household waste

Section 58 removes the power of local authorities to enforce prescribed collection arrangements for householder presentation of waste and recycling. Previously, there was a penalty charge which was enforceable, if not paid, in court with the ability to issue a fine of up to £1,000. Instead, the Act establishes a civil regime with a fine of £60 that allows local authorities to issue a fine only on the basis of nuisance or a detriment to the amenities of the locality. This provision removes enforcement on the basis of the nature of the waste presented and whether recycling has been appropriately separated. In addition, the fine can only be issued after three separate warnings have been issued to the resident.

Operating and enforcing prescribed collection arrangements is crucial to enable councils to encourage and increase recycling levels and meet EU targets. The LGA therefore called on the Government to remove this clause from the Bill. We raised concerns that the proposed civil fine of £60, together with the requirement to establish nuisance and detriment to the amenities of the locality, would not allow effective enforcement and would undermine the work of councils to increase recycling rates. The LGA called for the retention of the ultimate criminal sanction if fines are not paid, but with a reduced top end fine level of £200 instead of £1,000.

Licensing

Section 66 introduces a new form of authorisation called a Community or Ancillary Sellers Notice (CAN). This enables prescribed bodies, such as community organisations or bed and breakfasts, to sell alcohol. The aim is to simplify the licensing process for smaller, lower risk premises. Although these clauses are contained in the Act, the precise details of what constitutes a lower-risk premises is still to be defined in regulations which are not expected before October 2015.

This section also increased the number of temporary event notices (TENs) that can be applied for each year from 12 to 15, and ended the requirement to renew personal licences every 10 years. Licensing authorities are also given the power to exempt certain types of late-night refreshment premises from the licensing system.

Although simplifying licensing is something which the LGA strongly supports, we were concerned that the Government did not adequately consult local government ahead of this reform. We expressed disappointment that licensing regimes continue to be reformed in a piecemeal fashion, rather than considering the strategic approach proposed in the LGA's 'Rewiring Licensing'. In response, the Government said that it would consult the LGA on future proposals on alcohol.

The LGA therefore took the opportunity afforded by the Bill to propose the addition of a new clause that would commit the Government to undertake a review of all local authority licensing regulations with the aim of simplification. In the debate in the House of Commons on the amendment, the Government welcomed the LGA's work which it said would be taken into account by government departments as they continue to identify ways to deregulate.

Thank you

Throughout the passage of the Bill through Parliament we worked closely with our Vice-Presidents, as well as other MPs and Peers, briefing them ahead of debates and suggesting amendments. On behalf of local government, we are grateful to all those parliamentarians who supported us and championed the concerns and arguments of the sector.

Useful links

For the full text of the Act, please refer to: www.legislation.gov.uk/ukpga/2015/20/contents/enacted/data.htm



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