

Local Government Ombudsman (Amendment) Bill (changed to Local Government (Review of Decisions) Bill)

[AS AMENDED IN PUBLIC BILL COMMITTEE]

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B I L L

[AS AMENDED IN PUBLIC BILL COMMITTEE]

TO

~~Extend the powers of the Local Government Ombudsman to provide redress against local authorities which unreasonably ban events on the grounds of health and safety.~~

Make provision about the procedure for conducting investigations under Part 3 of the Local Government Act 1974; and to make provision for cases where an authority to which that Part applies takes a decision that affects the holding of an event for a reason relating to health or safety.

BE 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:—

~~1 Amendments to the Local Government Act 1974~~

2 Decisions invoking health or safety: notification, reasons and review

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~~The~~ In the Local Government Act 1974 ~~is amended as follows~~. before Part 3 insert—

“PART 2A

DECISIONS RELATING TO HOLDING OF EVENTS

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22A Decisions invoking health or safety: notification, reasons and review

(1) ~~After section 26~~ Subsection (1A2) there is inserted applies if—

~~“(1B) Notwithstanding the provisions of subsection (1) and the exclusions in Schedule 5, if a local authority bans or imposes restrictions on any event on the grounds of health and safety, the event organiser has the right to seek an investigation by a Local Commissioner under subsection (1).”~~

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- (1) ~~In section 31(2), for the words from “to consider the report” to the end of the subsection substitute—~~

~~“in relation to events which have unreasonably been banned on the grounds of health and safety, to carry out in full all recommendations proposed by the Local Commissioner within the period of three months beginning with the date on which the local authority receives the report, or such longer period as the Local Commissioner may agree in writing. The Local Commissioner in these cases has the right of redress against local authorities, including the ability to compel local authorities to pay compensation to the event organiser for events unreasonably banned or restricted.”~~

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3 Duties of local authorities

- (1) ~~Where a local authority bans or imposes restrictions on any event on the grounds of health and safety, the local authority must provide the event organiser with written notification of the decision on the day on which the decision is taken.~~

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- (a) a decision that relates to an event is taken by or on behalf of an authority to which Part 3 of this Act applies,
(b) the decision is taken in connection with the exercise of the authority’s administrative functions, and
(c) for a reason related to the health or safety of any person, or for reasons that include such a reason, the decision has effect to—
(i) stop the holding of the event,
(ii) impose restrictions on the holding of the event,
(iii) impose conditions to be met in connection with the holding of the event, or
(iv) do all, or any two, of those things.

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- (2) The authority must ensure that written notification of the decision is given (electronically or otherwise) to—

- (a) the person who made the application or other request to which the decision is a response, or
(b) a person who appears to the authority to be an organiser of the event if the decision is made otherwise than on a request.

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- (3) Written notification given for the purposes of subsection (2) —

- (a) must be given on the day the decision is taken or, if it is not reasonably practicable to give the notification on that day, must be given on the first working day after that day,
(b) must, if the decision has the effect mentioned in subsection (1)(c)(i), give details of the decision’s effect,
(c) must, if the decision has the effect mentioned in subsection (1)(c)(ii) or (iii), give details of the restrictions or conditions,
(d) must include the reasons for the decision so far as it has any of the effects mentioned in subsection (1)(c)(i) to (iii), and
(e) may be a notification that is given also for other purposes.

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- (4) Subsection (5) applies if—

- (a) for the purposes of subsection (2) an authority gives a person notification of a decision, and
(b) the person, or some other person who is an organiser of the event, asks the authority to review the decision.

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- (5) The ~~written notification authority~~ must ~~include ensure~~ –
- (a) that a review of the decision is completed –
 - (i) as soon as is reasonably practicable after the details of authority receives the ban or request for the restriction review, and
 - (a) ~~reasons why the ban or the restriction has been imposed.~~ 5
- (2) ~~On receipt of a written notification an event organiser may ask the local authority to review the decision and the local authority must conduct such a review within two weeks of the request being received and issue written notification of its further decision to the event organiser.~~ 10
- (3) ~~Any failure of a local authority to comply with subsections (1), (2) or (3) may be referred to a Local Commissioner or the Local Government Ombudsman.~~
- (4) ~~In this section “local authority” means –~~
- (a) ~~a county council in England;~~
 - (b) ~~a district council;~~
 - (c) ~~a London borough council;~~ 15
 - (d) ~~the Greater London Authority;~~
 - (e) ~~the Common Council of the City of London in its capacity as a local authority;~~
 - (f) ~~the Council of the Isles of Scilly.~~
 - (i) in any event, within two weeks of the day on which the authority receives the request, and
 - (b) that the person who asked for the review is given (electronically or otherwise) written notification of the decision made on the review, including the reasons for the decision, as soon as is reasonably practicable after the decision is made. 20
- (6) On a review under subsection (5) of a decision, the decision is to be –
- (a) confirmed,
 - (b) withdrawn,
 - (c) replaced by any other decision that could have been taken in the first instance, or
 - (d) varied (but only if the decision as varied is one that could have been taken in the first instance).
- (7) If a person has rights to appeal against or otherwise challenge a decision reviewed under subsection (5), the person has the corresponding rights to challenge the decision made on the review.
- (8) In this section “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.

4 Procedure for investigations by Local Government Ombudsman

- (1) Section 28 of the Local Government Act 1974 (procedure in respect of investigations under Part 3 by Local Commissioners) is amended as follows.
- (2) In subsection (2) (investigations by Local Commissioner to be conducted in private but otherwise as the Local Commissioner considers appropriate) after

“without prejudice to the generality of the preceding provision” insert “—

- (a) the Local Commissioner may, as well as adopting different procedure for different cases, adopt different procedure for cases of different descriptions; and
- (b) ”.

(3) After subsection (4) insert—

“(5) The differential procedure authorised by subsection (2)(a) includes (in particular) procedure for cases of a particular description that is expected to be faster than that for at least some other cases.”

5 **Financial provisions**

~~*There shall be paid out of money provided by Parliament—*~~

- ~~*(a) any expenditure incurred under or by virtue of this Act by the Secretary of State, and*~~

There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable under any other Act out of money so provided.

6 **Short title, commencement and extent**

- (1) This Act may be cited as the Local Government ~~Ombudsman~~ (AmendmentReview of Decisions) Act ~~2011~~2012.
- (2) This Act comes into force ~~on~~ two months after the day on which it is passed.
- (3) This Act extends to England and Wales only.

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~~To extend the powers of the Local Government Ombudsman to provide redress against local authorities which unreasonably ban events on the grounds of health and safety.~~

*Presented by Mr Christopher Chope,
supported by Mr Peter Bone, Philip Davies,
Mr Philip Hollobone, Mr David Nuttall,
Mr Greg Knight and Priti Patel.*

*Ordered, by The House of Commons,
to be Printed, 21 October 2010.*

[AS AMENDED IN PUBLIC BILL COMMITTEE]

To make provision about the procedure for conducting investigations under Part 3 of the Local Government Act 1974; and to make provision for cases

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where an authority to which that Part applies takes a decision that affects the holding of an event for a reason relating to health or safety.

*Presented by Mr Christopher Chope,
supported by Mr Peter Bone, Philip Davies,
Mr Philip Hollobone, Mr David Nuttall,
Mr Greg Knight and Priti Patel.*

*Ordered, by The House of Commons,
to be Printed, 11 January 2012.*