



Natural Environment and Rural Communities Act 2006

2006 CHAPTER 16

PART 8

FLEXIBLE ADMINISTRATIVE ARRANGEMENTS

CHAPTER 1

AGREEMENTS WITH DESIGNATED BODIES

Powers to enter into agreements

78 Agreement between Secretary of State and designated body

- (1) The Secretary of State may enter into an agreement with a designated body authorising that body to perform a DEFRA function—
 - (a) either in relation to the whole of England or in relation to specified areas in England;
 - (b) subject to paragraph (a), either generally or in specified cases.
“Specified” means specified in the agreement.
- (2) An agreement under this section—
 - (a) may be cancelled by the Secretary of State at any time, and
 - (b) does not prevent the Secretary of State from performing a function to which the agreement relates.
- (3) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

79 Agreement between designated bodies

- (1) A designated body (“A”) may, with the approval of the Secretary of State, enter into an agreement with another designated body (“B”) authorising B to perform a function of A that is related to or connected with a DEFRA function—
 - (a) either in relation to the whole of England or in relation to specified areas in England;
 - (b) subject to paragraph (a), either generally or in specified cases.
“Specified” means specified in the agreement.
- (2) The Secretary of State’s approval may be given—
 - (a) in relation to a particular agreement or in relation to a description of agreements;
 - (b) unconditionally or subject to conditions specified in the approval.
- (3) Subject to subsection (5), the Secretary of State—
 - (a) must review an agreement under this section no later than the end of the period of 5 years beginning with the date on which the agreement was entered into or was last reviewed by the Secretary of State, and
 - (b) if it appears appropriate to do so in the light of the review, may cancel the agreement.
- (4) Subject to subsection (5), an agreement under this section may not be varied except—
 - (a) by agreement between A and B, and
 - (b) with the approval of the Secretary of State.
- (5) An approval given under subsection (1) may provide that subsection (3) or (4) does not apply (or that both of them do not apply).
- (6) This section is subject to sections 81 and 82 (reserved functions and maximum duration of agreement).

80 Designated bodies

- (1) In this Chapter “designated body” means a body listed in Schedule 7.
- (2) The Secretary of State may by order amend Schedule 7 so as to—
 - (a) add a body to the list, or
 - (b) remove a body from it.
- (3) But the Secretary of State may not exercise the power conferred by subsection (2)(a) unless satisfied that at least one of the purposes or functions of the body to be added to the list is related to or connected with a DEFRA function.
- (4) A body to be added to the list need not be a public body.
- (5) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (6) A statutory instrument containing an order under subsection (2) is subject to annulment in pursuance of a resolution of either House of Parliament.

81 Reserved functions

- (1) An agreement may not authorise a designated body to perform a reserved function.
- (2) The reserved functions are—
 - (a) any function whose performance by the designated body would be incompatible with the purposes for which the body was established;
 - (b) any power of a Minister of the Crown to make or terminate appointments or lay reports or accounts;
 - (c) any power to make subordinate legislation, give directions or guidance or issue codes of practice (or to vary or revoke any of those things);
 - (d) any power to fix fees or charges other than a power prescribed for the purposes of this section by an order made by the Secretary of State;
 - (e) any function of an accounting officer in his capacity as such;
 - (f) except in relation to an agreement authorising a public body to perform functions—
 - (i) any power to enter, inspect, take samples or seize anything, and
 - (ii) any other power exercisable in connection with suspected offences;
 - (g) any function of the Secretary of State under the Water Industry Act 1991 or under any subordinate legislation made under that Act.
- (3) The power to make an order under subsection (2)(d) is exercisable by statutory instrument.
- (4) A statutory instrument containing an order under subsection (2)(d) is subject to annulment in pursuance of a resolution of either House of Parliament.

82 Maximum duration of agreement

The maximum period for which an agreement may authorise a designated body to perform—

- (a) a DEFRA function, or
 - (b) a function that is related to or connected with a DEFRA function,
- is 20 years.

Supplementary

83 Particular powers

- (1) The fact that a function is conferred by or under this Act or an Act passed after the passing of this Act does not prevent it from being the subject of an agreement.
- (2) The Secretary of State or a designated body (“A”) may, under an agreement, authorise a designated body (“B”) to perform a function even though under the relevant enactments or subordinate legislation—
 - (a) the function is conferred on A by reference to specified circumstances or cases and the same type of function is conferred on B in different specified circumstances or cases,
 - (b) the function is exercisable by A and B jointly,
 - (c) B is required to be, or may be, consulted about the function (whether generally or in specified circumstances), or

Status: This is the original version (as it was originally enacted).

- (d) B is required to consent to the exercise of the function (whether generally or in specified circumstances).
- (3) An agreement may provide—
 - (a) for the performance of a function to be subject to the fulfilment of conditions;
 - (b) for payments to be made in respect of the performance of the function.
- (4) A designated body which is authorised under an agreement to perform a function—
 - (a) is to be treated as having power to do so;
 - (b) may, unless (or except to the extent that) the agreement provides for this paragraph not to apply—
 - (i) authorise a committee, sub-committee, member, officer or employee of the body to perform the function on its behalf;
 - (ii) form a body corporate and authorise that body to perform the function on its behalf.
- (5) However, where the designated body is a local authority—
 - (a) subsection (4)(a) is subject to section 84(5)(a), and
 - (b) section 84 applies in place of subsection (4)(b).
- (6) Subject to subsection (4)(b) and section 84, a designated body which is authorised under an agreement to perform a function may not authorise any other body or other person to perform that function.

84 Agreements with local authorities

- (1) This section applies where a local authority is authorised under an agreement to perform a function.
- (2) Subject to subsection (5), the function that the local authority is authorised to perform is to be treated as a function of the local authority for the purposes of—
 - (a) any power of a local authority to arrange for the discharge of the function by any person mentioned in subsection (3), and
 - (b) any power of a person mentioned in subsection (3) to arrange for the discharge of a function by any other person mentioned there.
- (3) The persons are any committee, sub-committee, member, officer or employee of the local authority.
- (4) “Committee” does not include a joint committee of two or more local authorities.
- (5) If the local authority is operating executive arrangements—
 - (a) the function is to be treated as a function of the local authority for the purposes of section 13 of the Local Government Act 2000 (c. 22), and
 - (b) if (or to the extent that) the function is the responsibility of the executive of the local authority—
 - (i) subsection (2) does not apply, and
 - (ii) sections 14 to 16 of the 2000 Act, and any regulations made under sections 17 and 18 of the 2000 Act, apply.
- (6) “Executive arrangements” and “executive” have the same meaning as in Part 2 of the 2000 Act.

- (7) An agreement may provide that the provisions of subsection (2) or those mentioned in subsection (5)(b)(ii) do not apply (or do not apply to a specified extent).

85 Supplementary provisions with respect to agreements

- (1) An agreement, and any approval given by the Secretary of State under section 79, must be in writing.
- (2) The Secretary of State must arrange for a copy of an agreement to be published in a way that the Secretary of State thinks is suitable for bringing it to the attention of persons likely to be affected by it.
- (3) No power of a Minister of the Crown under any enactment to give directions to a statutory body extends to giving a direction—
- (a) requiring it to enter into an agreement;
 - (b) prohibiting it from entering into an agreement;
 - (c) requiring it to include, or prohibiting it from including, particular terms;
 - (d) requiring it to negotiate, or prohibiting it from negotiating, a variation or termination of an agreement.
- (4) Schedule 15 to the Deregulation and Contracting Out Act 1994 (c. 40) (restrictions on disclosure of information) applies in relation to an authorisation by a designated body under this Chapter as it applies in relation to an authorisation under section 69 of that Act by an office-holder.

86 Interpretation

- (1) In sections 81 to 85 “agreement” means an agreement under section 78 or 79.
- (2) In this Chapter “DEFRA function” means a function which at the material time falls to be performed by or through the Department for Environment, Food and Rural Affairs.
- (3) A certificate issued by the Secretary of State that a function falls to be performed as mentioned in subsection (2) is conclusive evidence of that fact.
- (4) In this Chapter—
- “designated body” has the meaning given by section 80;
 - “local authority” means—
 - (a) a local authority as defined in section 1(a) of the Local Government Act 2000 (c. 22), and
 - (b) the Greater London Authority;
 - “Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975 (c. 26);
 - “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).