



Local Democracy, Economic Development and Construction Act 2009

2009 CHAPTER 20

PART 1

DEMOCRACY AND INVOLVEMENT

CHAPTER 5

LOCAL FREEDOMS AND HONORARY TITLES

28 Power to amend law relating to local freedoms

- (1) The Local Government Act 1972 (c. 70) is amended as follows.
- (2) In section 248 (freemen and inhabitants of existing boroughs), after subsection (1C) insert—
 - “(1D) Schedule 28A (amendment of laws relating to freedom of city or town) shall have effect.”
- (3) Before Schedule 29 insert—

“SCHEDULE 1

AMENDMENT OF LAWS RELATING TO FREEDOMS OF CITIES AND TOWNS

Introductory

- 1 (1) This Schedule makes provision for the laws relating to freedom of a city or town to be amended by, or pursuant to, a resolution of persons admitted to that freedom.

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- (2) The powers conferred by this Schedule are without prejudice to any other power to amend the law relating to freedom of a city or town.
- (3) In this Schedule—
- “appropriate national authority” means—
- (a) the Secretary of State, in relation to a city or town in England;
- (b) the Welsh Ministers, in relation to a city or town in Wales;
- “enactment” includes in particular—
- (a) a royal charter or other instrument made under the royal prerogative;
- (b) any instrument made under an enactment.

Powers to amend law in respect of women and civil partners

- 2 (1) The purposes of this paragraph are—
- (a) to provide for a woman to have the right to be admitted to freedom of a city or town in any or all circumstances where a man has that right;
- (b) to enable a woman admitted to the freedom of a city or town (whether pursuant to this Schedule or otherwise) to use the title “freewoman”;
- (c) to put a civil partner or surviving civil partner of a person admitted to freedom of a city or town in the same position as a spouse or surviving spouse of such a person.
- (2) The appropriate national authority may by order amend an Act for any purpose of this paragraph, if the amendment is proposed by a qualifying resolution.
- (3) A qualifying resolution may amend—
- (a) any enactment other than an Act, or
- (b) the law established by custom,
- for any purpose of this paragraph.
- (4) An amendment may not be made under this paragraph for the purpose specified in sub-paragraph (1)(a) if the effect of the amendment in any case or circumstances would be to deprive a man of the right to be admitted to freedom of a city or town.
- (5) A provision of a public general Act may not be amended under this paragraph unless the provision relates only to—
- (a) a particular city or town, or
- (b) a specified group of cities or towns.

Power to amend royal charters

- 3 (1) Her Majesty may by Order in Council amend the law relating to rights of admission to freedom of a city or town where—
- (a) the law is contained in a royal charter; and
- (b) the amendment is proposed in a qualifying resolution.
- (2) It is immaterial for the purposes of sub-paragraph (1) above whether the amendment is one which could be made under paragraph 2(3) above.

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- (3) An Order in Council under this paragraph is not a statutory instrument for the purposes of the Statutory Instruments Act 1946.

Powers to amend laws established by custom

- 4 (1) A qualifying resolution may amend the law relating to rights of admission to freedom of a city or town where the law is established by custom.
- (2) The power in sub-paragraph (1) above does not include power to make an amendment which could be made under paragraph 2(3) above.

Consequential amendments

- 5 (1) The power to make an amendment under paragraph 2(2) above includes power (exercisable in the same way and subject to the same conditions) to make consequential amendments to—
- (a) any enactment, or
 - (b) the law established by custom.
- (2) The power to make an amendment under paragraph 2(3), 3 or 4 above includes power (exercisable in the same way and subject to the same conditions) to make consequential amendments to—
- (a) any enactment other than an Act, or
 - (b) the law established by custom.
- (3) Where an amendment is made under paragraph 2(3), 3 or 4 above, the appropriate national authority may by order make consequential amendments to any Act, if the consequential amendments are proposed by a qualifying resolution.
- 6 (1) Where by virtue of an amendment under paragraph 2, 3 or 4 above a person has the right of admission to freedom of city or town, the following amendments in particular are to be regarded as consequential for the purposes of this Schedule—
- (a) an amendment for the purpose of putting that person in the same position as any other person admitted to that freedom;
 - (b) an amendment for the purpose of putting a person who by marriage, civil partnership, descent, employment or otherwise is or has been related to or associated with that person in the same position as a person correspondingly related to or associated with any other person admitted to that freedom;
 - (c) an amendment for the purpose of putting a person who is or has been related by marriage or civil partnership to a surviving spouse or civil partner or child of that person in the same position as a person correspondingly related to the surviving spouse or civil partner or child of any other person admitted to that freedom.
- (2) In determining for the purposes of sub-paragraph (1) above whether one relationship corresponds with another, differences of gender are to be ignored.

Qualifying resolutions

- 7 (1) For the purposes of this Schedule, a “qualifying resolution” is a resolution—

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- (a) in relation to which the requirements of paragraph 8 below are complied with; and
 - (b) which is passed in accordance with paragraph 9 below.
- 8 (1) The requirements of this paragraph in relation to a resolution are as follows.
 - (2) The resolution must be proposed by three or more eligible persons.
 - (3) Voting on the resolution is to be by postal ballot.
 - (4) The proposers must make reasonable endeavours to secure that each eligible person is sent—
 - (a) a notice of the ballot, and
 - (b) a ballot paper.
 - (5) The notice must state—
 - (a) the resolution proposed,
 - (b) the purpose of the resolution, and
 - (c) the date by which ballot papers must be returned (the “voting date”).
 - (6) Any notice and ballot paper must be sent at least 28 days before the voting date.
 - (7) For the purposes of this paragraph, a notice or ballot paper is sent to a person on the day it is posted by first class post to the last known address of that person.
- 9 (1) A resolution is passed in accordance with this paragraph if—
 - (a) it is passed by a majority of the eligible persons voting on the resolution,
 - (b) the number of eligible persons voting on the resolution is at least 10% of the number of eligible persons to whom notice is sent under paragraph 8(4) above, and “ the resolution is notified to the relevant council within six weeks from the voting date. ”
- (2) For the purposes of sub-paragraph (1)(c) above, the resolution is notified by delivery of the following documents to the relevant council—
 - (a) a copy of the resolution;
 - (b) a copy of the notice sent under paragraph 8(4) above;
 - (c) a statement in writing of the names of the eligible persons to whom the notice was sent;
 - (d) a statement in writing of the number of eligible persons who voted on the resolution and of the number who voted in favour of it;
 - (e) all ballot papers returned in accordance with the notice.
- (3) The relevant council must keep the documents delivered under sub-paragraph (2) above, but need not keep those within paragraphs (b) to (e) of that sub-paragraph if it considers that it is no longer reasonably necessary to do so.
- 10 In paragraphs 8 and 9 above—
 - “eligible person” means a person whose name is on the roll of persons admitted to the freedom of the city or town concerned kept under section 248(2) above;

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“relevant council” means—

- (a) in relation to a city or town in England—
 - (i) the district council in whose area the city or town is situated, or
 - (ii) if the city or town is not in the area of a district council, the county council in whose area it is situated;
- (b) in relation to a city or town in Wales, the principal council in whose area the city or town is situated.

Order-making powers: supplementary

- 11 (1) A statutory instrument containing an order under this Schedule which contains an amendment to a public general Act is subject to annulment—
 - (a) by either House of Parliament, in the case of an order made by the Secretary of State;
 - (b) by the National Assembly for Wales, in the case of an order made by the Welsh Ministers.”
- (4) In section 248—
 - (a) in subsection (1), after “this section”, in both places, insert “ and Schedule 28A ”;
 - (b) in subsection (2), for “freemen” substitute “ persons admitted to the freedom ”;
 - (c) in subsection (3)—
 - (i) for “as a freeman” substitute “ to the freedom ”;
 - (ii) for “his”, in both places, substitute “ the person's ”;
 - (iii) for “freemen” substitute “ persons admitted to the freedom ”;
 - (d) in subsection (4), in paragraphs (a), (b) and (c), for “freeman” substitute “ person admitted to the freedom ”.

Commencement Information

II S. 28 in force at 12.1.2010, see s. 148(1)(d)

Changes to legislation:

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