EXPLANATORY DOCUMENT

THE LEGISLATIVE REFORM (LOCAL AUTHORITY CONSENT REQUIREMENTS) (ENGLAND AND WALES) ORDER 2007

STATEMENT BY COMMUNITIES AND LOCAL GOVERNMENT

Contents

Chapter 1: Introduction
Chapter 2: Summary of proposals and background
Chapter 3: Cross cutting issues, including:

- Legislative and Regulatory Reform Act 2006;
- the case for a Legislative Reform Order;
- consultation details;
- summary of consultation responses;
- Welsh Ministers consent
- Regulatory Impact Assessment;
- compatibility with the European Convention on Human Rights;
- plain English;
- charges on the public revenues; and
- retrospective effect.

Chapter 4: Cancer Act 1939: Proposal and Analysis
Chapter 5: Local Government Act 1972: (Licensed Taxis) Proposal and Analysis
Chapter 6: Local Government (Overseas Assistance) Act 1993: Proposal and Analysis
Chapter 7: Education Act 1996: Proposal and Analysis
Annex A1: Details of the public consultation exercise
Annex A2: List of consultees
Annex A3: Summary of responses (including details of respondents)
Annex B: Full Regulatory Impact Assessment
Annex C: Full consultation responses

CHAPTER 1 - INTRODUCTION

1.1 This statement is laid before Parliament in accordance with section 14(1) of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act");' together with the draft of the Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2007 ("the draft Order") which the Minister proposes to make under section 1 of that Act. The purpose of the draft Order is to remove requirements, for local authorities in England and Wales to seek consent before taking certain action, which are in the following enactments: the Cancer Act 1939, the Local Government Act 1972, the Local Government (Overseas Assistance) Act 1993 and the Education Act 1996.

1.2 The Minister recommends that the draft Legislative Reform Order and the Explanatory Document be laid in Parliament under the affirmative resolution procedure, for which provision is made by section 17 of the 2006 Act. This procedure was chosen because, firstly, the draft Order affects functions and powers of public authorities, including (though to a limited extent) expenditure of public monies. Secondly although CLG is co-ordinating this Order, it involves legislation and policy responsibilities of more than one Government department, and of the Government of Wales. So a degree of Parliamentary scrutiny greater than that which is available under the negative resolution procedure was felt to be appropriate. However, none of the matters in the draft Order are controversial, or of wider political or public importance, so it was felt that there is little justification for invoking the super-affirmative procedure under the 2006 Act.

CHAPTER 2 - SUMMARY OF PROPOSALS AND BACKGROUND

Legislation	Proposal
Section 4 Cancer Act 1939	To remove from the Cancer Act 1939 the requirement for English and Welsh local authorities to obtain the Attorney General's consent before instituting prosecutions for publishing certain advertisements concerning cancer treatment and to make clear that the specified local authorities have a discretion on whether or not to prosecute in any particular case rather than a duty; and to remove an anomaly whereby s4(7) of the 1939 Act did not apply to Metropolitan district councils in England.
Paragraph 25 of Schedule 14 to the Local Government Act 1972	To remove the need for a local authority in England or Wales to obtain the Secretary of State's or the Welsh Ministers' approval to a resolution applying section 171(4) of the Public Health Act 1875 to its area so that it can amalgamate taxi licensing zones in its area.
Section 1 Local Government (Overseas Assistance) Act 1993	To remove the requirement that action by English and Welsh local authorities under the 1993 Act is subject to consent from the Secretary of State or in accordance with a general authorisation given by him. This would give authorities complete freedom to provide advice and assistance to bodies overseas in accordance with the remaining requirements of the 1993 Act. The proposals do not apply to Scottish local authorities.
Paragraph 6 of Schedule 1 to the Education Act 1996	To amend paragraph 6 of Schedule 1 to the Education Act 1996 to remove the requirement on local education authorities to seek the Secretary of State's or the Welsh Ministers' approval with regard to their arrangements for the consideration and disposal of any complaint that the local authority, or teacher in charge of the Pupil Referral Unit, have acted unreasonably with respect to certain functions or have failed to discharge their duty to provide a balanced and broadly based curriculum at a Pupil Referral Unit.

General background

2.1 These proposals are part of our commitment to decrease unnecessary bureaucracy for all local authorities. In September 2002 we announced a programme of action to deregulate 84 consent requirements which had then been identified.[1] By the end of 2005 the majority (61) of those had been addressed. In March 2006 the Cabinet Office published "*Consent Regimes: Reducing Unnecessary Bureaucracy*"[2] which committed departments across government to: consult externally on whether to remove or improve 11 consent regimes, consult internally on a further 14, modify 1 consent regime to simplify the requirement, and remove 21 consent regimes - four of which are addressed in these proposals.

2.2 One provision, to repeal subsection 71 (2) and (3) of the Local Government Housing Act 1989, is not included in the final draft of this Order, although it was the subject of consultation. The repeal will still be carried out, however, as Section 71 (2) is contained within Part V of that Act and provison is made for the repeal of the whole of Part V in Part 12 of the Local Government and Public Involvement in Health Bill, currently before Parliament.

The Deregulation Agenda

2.3 Improving the delivery of public services is one of our top priorities. We are committed to ensuring that local communities all receive a satisfactory level of public services. Regulation and controls over public services are a crucial element to ensuring minimum standards. However, where we use regulation and control, it removes decision making and places an increased bureaucratic burden involving additional costs and inconvenience on those delivering and receiving public services. This can stifle innovation, divert resources away from front line delivery and undermine local accountability. Therefore, regulation and controls need be applied in a measured way.

Unnecessary Bureaucracy: Consent Requirements

2.4 This proposal concerns the removal of local authority consent requirements – statutory requirements to obtain the consent of the Secretary of State or the Welsh Ministers, or in one case, the Attorney General, before authorities are able to take action locally. The process of making a case for, and seeking consent places additional burdens, which incur costs to both the Local Authority and the relevant Government body as well as causing delay to the persons who are affected by the measure. Like other regulation, consent requirements can be valuable measures in protecting the interests of all of the local community. However, used unnecessarily, they can discourage creativity and erode accountability. They also typify the 'Whitehall knows best' approach to service delivery which can be frustrating to councils who are generally better positioned to make judgments on local need. An example of the nature of the burden placed on local and central government by a typical request for

---

1 http://www.communities.gov.uk/index.asp?id=1002882&PressNoticeID=1043

2 http://odpm.gov.uk/pub/72/ConsentRegimesReducingUnnecessaryBureaucracyPDF512Kb_id1164072.pdf

consent is given in S5.2 of the Full Regulatory Impact Assessment at Annex B.

2.5 There is an argument that the removal of certain consent regimes may lead to more disputes between local authorities and local people. We believe this is an acceptable and inevitable by-product of increasing local democratic accountability within the framework of modern local government. In some cases the removal of a consent regime may remove a safeguard that, in theory at least, an aggrieved person may have their objections considered by a third party. However, the aggrieved person would still be able to expect local authorities to consider their objections as a matter of good administration. We consider that, for the consent regimes covered in this Order, this provides sufficient safeguard.

2.6 In 1997 a group comprising central and local government officials was tasked with identifying, reviewing and giving recommendations on consent requirements on local authorities. Their findings, published in the *Efficiency Scrutiny Review*[3] recommended that a number of consent powers should be de-regulated. Bureaucracy reduction for local authorities was reinforced in the December 2001 White Paper *Strong Local Leadership – Quality Public Services*[4] which said that consent requirements for all local authorities would be reduced. Following the White Paper, in September 2002, we announced[5] that we would de-regulate a total of 84 consent regime powers.

2.7 The September 2002 announcement was welcomed by the Local Government Association (LGA) whose contribution to the Press Notice said *"The LGA welcomes this government announcement. We have been pressing the government for some time about progress on consent regimes powers and this announcement on progress and further repeal should result in significant time savings for local authorities".*

2.8 As mentioned earlier, the majority of these consent requirements have been addressed as part of wider reform in particular service areas. For example, specific land use planning consents were removed through the Planning and Compulsory Purchase Act 2004. Action on other consent requirements has been taken forward in the Local Government Act 2003 and Waste Emissions and Trading Act 2003. It has been possible for other consent requirements to be de-regulated through regulations. However, there are a number of consent requirements for which there were no imminent vehicles through which to de-regulate.

---

[3] Report of an Efficiency Scrutiny of Central Consent Regimes for Local Authorities, Department of the Environment, March 1997, Product Code 96LGI16002, Available from Communities and Local Government, PO Box 236, Wetherby, West Yorkshire, LS23 7NB, Tel: 0870 1226 236, Fax 08760 1226 237

[4] Strong Local Leadership - Quality Public Service, Department for Transport, Local Government and the Regions, December 2001, ISBN 0 10 153272 5, http://www.communities.gov.uk/pub/215/StronglocalleadershipQualitypublicservicesDTLR2001PartOne_id1165215.pdf

[5] News Release 2002/0307: 3 September 2002 'Government Gives Councils Greater Freedom on Local Decisions' (ODPM 065)

2.9 The (then) Office of the Deputy Prime Minister committed to take forward the proposals under the provisions of the Regulatory Reform Act 2001 ("the 2001 Act"). The necessary consultations took place in 2005/6 with a view to proceeding as soon as possible following consultation. However the repeal of the 2001 Act meant that the Order had to be redrafted **in form only** to meet the requirements of the 2006 Act. Section 13(4) of the 2006 Act provides that consultation undertaken in relation to proposals for an Order under the 2001 Act shall be taken to satisfy the consultation requirements for the 2006 Act. The Department for Communities and Local Government has therefore committed to taking forward a legislative reform order ("LRO") to de-regulate some of these other consent requirements.

CHAPTER 3 - CROSS CUTTING ISSUES

Legislative and Regulatory Reform Act 2006 ("The Act")

3.1 The Department considers the Act an appropriate vehicle for the proposed changes to the four Acts listed in the summary of the proposals in chapter 2.

The case for a Consent LRO

3.2 These proposals form part of the Government's commitment to decrease unnecessary bureaucracy for all local authorities. Since September 2002, 61 consent requirements have been deregulated using a variety of vehicles including primary legislation. There are no other imminent vehicles through which to deregulate the consent requirements covered in these proposals and we believe an LRO, which allows the Government to remove statutory burdens which would otherwise need to be addressed through primary legislation, provides the quickest option for removal and the most economic use of Parliamentary time.

3.3 This LRO proposes to de-regulate four consent requirements as detailed in the summary table in chapter two and in detail in chapters four to eight. The LRO extends to England and Wales. We have set out devolution issues explicitly in chapters 4-8 about the individual consent regimes. There are no proposals for any of the provisions to extend to Scottish authorities.

3.4 The LRO power enables a Minister of the Crown to reform legislation that imposes burdens. There is a statutory duty to consult those affected by the proposals. This explanatory document sets out how we consider that the use of this power meets the safeguards, and deals with some other matters, referred to in section 13 of the Legislative and Regulatory Reform Act 2006 ("the Act"). We have looked at each consent requirement and have set out in turn the case for de-regulation against the relevant safeguards.

Consultation details

3.5 As noted at paragraph 2.9 above, consultation on the proposals was undertaken in relation to a draft regulatory reform order under section 5 of the Regulatory Reform Act 2001. Details of the consultation (including supplementary consultation carried out to correct an anomaly whereby section 4(7) of the Cancer Act 1939 did not refer to metropolitan district councils) are given in Annex A1.

Summary of the consultation responses

3.6 17 responses were received as part of the main consultation and 100% of respondents are in support of the proposals on which they commented. In addition to these supportive comments, the most common additional response was that deregulation should go a lot further. A common response amongst local authority respondents was that local authorities should be allowed to follow their own proper decision making procedures without the need for consent. In addition, 4 responses were received as part of the supplementary consultation on the 1939 Act, 3 of these were supportive of the additional proposal and 1 was about matters outside the scope of the consultation.

Welsh Ministers consent

3.7 The consultation document was translated into Welsh and sent to the relevant bodies in Wales (see Annex A2). The Welsh Assembly Government has been asked for and has given its agreement in relation to the relevant proposals (that is, where these remove or modify any function of the Welsh Assembly Government as set out in chapters 5 (Local Government Act 1972), and 8 (Education Act 1996) to remove the consent requirement. A Legislative Reform Order which removes functions of the Welsh Ministers can only be made with the Welsh Ministers agreement under section 11 of the Act.

Regulatory Impact Assessment

3.8 A full regulatory impact assessment is attached at Annex B.

Compatibility with the European Convention on Human Rights

3.9 The Parliamentary Under Secretary of State Iain Wright has made the following statement regarding Human Rights:

In my view the provisions of the Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2007 are compatible with the Convention rights.

Plain English

3.10 All efforts have been made to write the consultation document, regulatory impact assessment, explanatory document and draft Order in plain English.

Charges on public revenues

3.11 These proposals do not impose any charges on the public revenues or require payment to be made to the Exchequer, any government department or to any local or public authority.

Retrospective effect

3.12 The proposals would not have retrospective effect.

European Union

3.13 It is the Department's view that the proposals are compatible with all the requirements of EU membership and with EU legislation.

CHAPTER 4 - CANCER ACT 1939 (section 4): Proposal and Analysis

What is the current burden?

4.1 Section 4 of the Cancer Act 1939 provides that, subject to certain defences, it is an offence to take part in the publication of any advertisement offering treatment, prescribing a remedy, or offering advice in connection with treatment, for cancer. Under section 4(6) of this Act, a local authority must obtain the Attorney General's consent before instituting a prosecution in England or Wales under section 4. Subject to that, under section 4(7), local authorities are under a duty to bring prosecutions under this section.

4.2 The Attorney General received 11 applications between 2000 and 2006 from Councils in England and no applications from Councils in Wales. He gave consent to 8 of these applications and rejected 2 and 1 was withdrawn. Of the two that did not receive consent, one was because there was insufficient evidence for a realistic prospect of conviction and for the other the council wanted to issue a caution rather than to prosecute.

How does our proposal remove or reduce burdens?

4.3 Removing the requirement on local authorities to seek the consent of the Attorney General before instituting a prosecution enables local authorities to initiate proceedings under section 4 of the Cancer Act 1939 without the restriction of having first to apply to the Attorney General. This will remove a burden on local authorities and the Attorney General.

4.4 The removal of the requirement to seek the consent of the Attorney General arguably removes any consideration as to whether a prosecution is in the public interest, leaving the local authority under a duty to prosecute in all cases. The draft Order therefore, as a consequential or incidental measure, substitutes section 4(7) of the Cancer Act 1939 so as to make clear that the specified local authorities[6] have discretion on whether or not to prosecute in any particular case. Local authorities should comply with the Code for Crown Prosecutors thereby taking account of the public interest in deciding whether or not to prosecute under section 4 of the Cancer Act 1939. This is consistent with section 222 of the Local Government Act 1972 which provides for local authorities to prosecute where they consider it expedient for the promotion or protection of the interests of the inhabitants in their areas.

4.5 These proposals will therefore remove the administrative burden on local authorities of being required to seek the consent of the Attorney General before instituting a prosecution. It will also remove the burden placed on the Attorney General having to consent to prosecutions.

[6] Section 4(7) refers to councils of counties and county boroughs. In 1939 these would have covered all areas in England and Wales. We have updated this to refer also to London borough councils, the Common Council of the City of London and unitary district councils for areas where there is no longer a county council. We have also corrected an anomaly whereby the function of prosecuting under S4(7) of the 1939 Act was not transferred to metropolitan district councils in England following the abolition of metropolitan county councils under the Local Government Act 1985.

Devolution Issues

4.6 These proposals extend to England and Wales. Section 4 of the Cancer Act 1939 has not been devolved to Wales.

4.7 These proposals do not however apply to Scotland as section 4(6) of the Cancer Act 1939 refers only to England and Wales. Section 7 of the Cancer Act 1939 deals with application of the Cancer Act 1939 in relation to Scotland. Section 7 expressly provides (at section 7(f) that section 4(7) does not apply to Scotland and is silent on the treatment of section 4(6) in view of the fact that it does not refer to Scotland.

Are we proposing or re-enacting burdens?

4.8 No. The proposed new section 4(7) of the Cancer Act 1939 provides discretion for a county council, county borough council, a unitary district council, a London borough council or the Common Council of the City of London to prosecute for an offence under section 4. It converts a duty to prosecute into a power to prosecute. As set out in the consultation document, our initial analysis of the provision was that it had the effect of imposing a burden. However, we now consider that the substitution of section 4(7) cannot be analysed in this way as it does not impose any obligation on authorities, and we believe the correct analysis is that the provision is desirable in consequence of, or as incidental to, the removal of section 4(6).

4.9 The proposal (as set out in the supplementary consultation on 29 June 2006) to extend Section 4 (7) of the 1939 Act to include the metropolitan district councils in metropolitan areas will remove an anomaly rather than a burden. It would ensure that the provisions for issuing proceedings under Section 4 of the 1939 Act applied to England as a whole (as originally intended in the 1939 Act) rather than parts of it only.

Could the policy objective be secured by non-legislative means?

4.10 No. Legislation is necessary to bring the local authority's prosecution function under the Cancer Act 1939 more in line with its general power to prosecute under section 222 of the Local Government Act 1972. Under section 222 of the Local Government Act 1972 local authorities have a general power to prosecute where they consider it expedient for the promotion or protection of the interests of inhabitants of their area. By providing in the proposed new section 4(7) of the Cancer Act 1939 for a discretion rather than a duty to prosecute for an offence under the Cancer Act there will be greater consistency with section 222. In addition, our proposal (as set out in the supplementary consultation on 29 June 2006) to extend section 4(7) of the 1939 Act to include the metropolitan district councils in metropolitan county areas ensures that it refers to all local authorities in England and Wales as initially intended.

4.11 The exclusion of metropolitan district councils was an unintentional consequence of the abolition of metropolitan county councils under the Local Government Act 1985. The proposed change will provide consistency across England as originally intended by the 1939 Act.

Is the provision fair, and does it meet the necessary safeguards set out in the 2006 Act?

4.12 This consent requirement ensures that prosecutions are only brought where the Attorney General considers them to be in the public interest. The duty to seek the consent of the Attorney General was imposed in 1939. After the introduction of the Act in 1939, local authorities were given a general power to prosecute under section 222 of the Local Government Act 1972 which is not subject to the Attorney General's consent. In deciding whether or not to prosecute under the new discretionary power, local authorities will follow the Code for Crown Prosecutors, which is available at http://www.cps.gov.uk. This requires prosecutors to take account of the public interest in deciding whether or not to bring a prosecution. In view of the power under section 222 it therefore appears unnecessary to continue to require the consent of the Attorney General: the protection to defendants currently provided by the requirement for Attorney General's consent is matched under the new framework.

What savings or increases in costs are expected?

4.13 There are no adverse resource or cost implications for business, voluntary organisations, the wider public sector or individuals as a result of this change.

4.14 The proposal to remove the need to seek the consent of the Attorney General removes several bureaucratic steps from the prosecution process - namely removing the need for a local authority to put their case for prosecution to the Attorney General and removing the need for the Attorney General to consider the case and respond. As noted at 4.2 above this change will result in a saving of time and administrative burdens for both parties.

4.15 The proposal to expressly state that local authorities have discretion rather than a duty to prosecute will ensure that costs are not incurred in a prosecution which does not serve the public interest.

What other benefits are anticipated?

4.16 None.

Summary of relevant consultation responses

4.17 All relevant respondents to the main consultation were fully supportive of the removal of this consent requirement. In the supplementary consultation (to correct an anomaly whereby section 4(7) of the Cancer Act 1939 did not refer to metropolitan district councils) 3 of the 4 respondents were supportive of correcting the anomaly and the remaining respondent raised matters outside the scope of the consultation.

CHAPTER 5 - Paragraph 25(4) of Schedule 14 to the Local Government Act 1972: (Licensed Taxis) Proposal and Analysis

What is the current burden?

5.1 We propose to remove the need for a local authority in England or Wales to obtain the Secretary of State's or the Welsh Ministers' approval to a resolution applying section 171(4) of the Public Health Act 1875, so that it can amalgamate hackney carriage (taxi) licensing zones in its area. This will remove a burden from local authorities and, by implication, from the Secretary of State and the Welsh Ministers.

Background and history of the development of zones

5.2 Outside London, and excluding Plymouth, taxis in England and Wales are licensed under the Town Police Clauses Act 1847, as incorporated within the Public Health Act 1875 (see section 171(4) of that Act), to ply for hire within a "prescribed distance". Usually the prescribed distance comprises the whole of the licensing authority's area, but some licensing areas comprise two or more prescribed distances, known as licensing zones. Licensed taxi drivers are compelled to accept hirings which are wholly within the prescribed distance.

5.3 Before 1974 local authorities applied section 171(4) of the Public Health Act 1875 in certain, mainly urban, areas. Applying that section created a taxi licensing regime in accordance with the provisions of the Town Police Clauses Act 1847. In 1974 new local authority areas were created as a result of the Local Government Act 1972. However, the 1972 Act did not alter the zones licensed under section 171(4), and the old licensing zones remained within the new council boundaries. Consequently, it was necessary for local authorities themselves to make a decision as to how they wished to administer their taxi licensing powers. They could:

(i) opt to have no taxi licensing at all in the district (a resolution to this effect had to be passed before 1 April 1975); or
(ii) extend taxi licensing to all parts of the new district and establish a single prescribed distance comprising the whole of the district; or
(iii) continue to license taxis only in those, mainly urban, areas where they had been subject to licensing up until the changes took effect and not in the remainder of the district.

5.4 Section 15 of the Transport Act 1985 extended taxi licensing throughout the whole of England and Wales. The effect of section 15 on local authorities who chose option (iii) was that taxi licensing, in the areas already subject to taxi licensing, was retained and a separate zone was created comprising that part of the district which had not been subject to licensing prior to the coming into effect of section 15.

5.5 Those local licensing authorities who had two or more licensing zones could choose to retain separate zones or to amalgamate them. Paragraph 25

of Schedule 14 to the Local Government Act 1972 enables them to pass a resolution to apply section 171(4) to the whole of their area. This has the effect of creating a single taxi zone throughout their area. Once zones have been amalgamated in this way there is no legislative provision for re-creating them. The approval of the Secretary of State or the Welsh Ministers is required to give effect to the resolution.

How does our proposal remove or reduce burdens?

5.6 We propose to remove the need for a local authority in England or Wales to obtain the Secretary of State's or the Welsh Ministers approval to a resolution applying section 171(4) of the Public Health Act 1875, so that it can amalgamate taxi licensing zones in its area. The power to disapply section 171(4) ceased on 31 March 1975 by virtue of paragraph 25(2) of Schedule 14 to the Local Government Act 1972.

Devolution issues

5.7 The legislation governing taxi licensing in England (outside London) also applies in Wales. The functions of the Secretary of State under paragraph 25 of Schedule 14 are exercisable by the Welsh Ministers concurrently with the Secretary of State. This means that the power can be independently exercised by each administration. This proposal would have no effect in Scotland as taxis in Scotland are regulated under different legislation. The Welsh Assembly Government agreed to the requirement for consent to be removed, on 27 March 2007

Are we proposing or re-enacting burdens?

5.8 No.

Could the policy objective be secured by non-legislative means?

5.9 No; the Order is necessary to meet the policy objective of reducing burdens on local authorities.

Is the provision fair and does it meet the necessary safeguards set out in the 2006 Act?

5.10 In its response to the Office of Fair Trading's market study of taxis and private hire vehicles, the Government said[7] that local authorities are best placed to determine local transport needs and to make the decisions about them in the light of local circumstances. Decisions to amalgamate zones essentially need to balance the need for passengers to benefit from being able to hail any cab in any part of the licensing area, whilst ensuring that an appropriate number of cabs are operating in that area. On average, the Secretary of State receives about one or two requests a year for approval of a resolution for such a taxi amalgamation and we believe that local authorities should be free to make such resolutions without seeking consent.

[7] Written Statement to Parliament on 18 March 2004 by the Secretary of State for Trade and Industry, Patricia Hewitt: http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040318/wmstext/40318m03.htm#40318m03.html_spmin1_highlighter_first_match

Does the provision prevent any person from continuing to exercise rights and freedoms?

5.11 No. Local licensing authorities would still have to follow the statutory procedure for giving notice of their intention to pass a resolution, as set out in paragraph 25(5) of Schedule 14 to the Local Government Act 1972, and they would have to take account of any objections put to them.

5.12 Some amalgamations have been a source of local contention. We are aware that drivers who are licensed to ply for hire in one central zone can object to the fact that drivers from other zones will be able to ply for hire in what they might regard as their exclusive territory. However, it is our understanding that such initial controversy usually dies down fairly quickly after amalgamation. Furthermore, the Secretary of State's approval for amalgamations has not prevented disagreement in what is essentially a local matter. The Government therefore believes that this regulation adds little if any value to decisions on amalgamations of taxi zones.

5.13 This consent requirement provides a safeguard that, in theory, an aggrieved person may have their objections considered by a third party who is not the decision maker. However, over the past 13 years the Secretary of State has only on two occasions considered it necessary to refuse to approve an amalgamation resolution and this was because the correct procedure had not been followed in terms of giving proper notice. The Department for Transport intends to reiterate the requirement for giving 'requisite notice' when it updates local authorities on the progress of the proposed Order, but ultimately responsibility for ensuring the validity of a resolution rests with the local authority that makes it.

5.14 The Secretary of State has not refused any resolutions on the grounds that the local authority has made an irrational or unreasonable decision. If this consent is removed then the aggrieved person would still have the protection afforded by the legislative requirement on local authorities to advertise their intention to amalgamate taxi licensing zones and they could still expect local authorities to consider any objections they raise as a matter of good administration. See also comments below on the transitional provisions.

What savings or increases in costs are expected?

5.15 There are potential administrative cost savings for local authorities who would no longer need to submit applications for approval to the Secretary of State or the Welsh Ministers. An example of the current process for securing approval from the Secretary of State is given in S5.2 of the Full Regulatory Impact Assessment at Annex B.

What other benefits are anticipated?

5.16 No other benefits are anticipated.

Summary of relevant consultation responses

5.17 All relevant respondents were fully supportive of the removal of this consent requirement.

Transitional Provision

5.18 Where a local authority passes a resolution applying section 171(4) of the Public Health Act 1875 throughout its area before the date on which the proposed Order comes into force, and the resolution has not been given or refused approval by the Secretary of State or the Welsh Ministers before that date, we propose that the resolution will take effect 35 days after the Order comes into force.

5.19 The transitional provision we seek is consistent with our proposal to remove the need for a local authority to obtain the Secretary of State's or the Welsh Ministers' approval to such a resolution.

5.20 The provision will provide any local authority affected with sufficient time, after the proposed Order comes into force, to finalise its preparations for the creation of a single taxi zone throughout its area and to publicise (to both the trade and travelling public) the date on which the new zone will definitely come into being. Only from the date on which the proposed Order comes into force will it no longer be possible for the Secretary of State or the Welsh Ministers to give or refuse approval to an amalgamation resolution that has been submitted to it.

5.21 We propose that an amalgamation resolution which is 'pending' when the proposed Order comes into force should take effect **35** days after that date so that it will not be possible for such a resolution to take effect a shorter period of time after it was passed than will be possible for an amalgamation resolution that is passed after the Order comes into force. An amalgamation resolution made after the Order comes into force will only be able to take effect on a date specified in the resolution, being not earlier than one calendar month after the date.

5.22 Given the extremely small number of resolutions that are submitted to the Secretary of State or the Welsh Ministers for approval each year it is highly unlikely that - in practice - any resolutions will fall under the proposed transitional provision.

How does the transitional provision meet the necessary safeguards?

5.23 As stated above, a local authority that intends to pass an amalgamation resolution must follow the statutory notice procedure set out in paragraph 25(5) of Schedule 14 to the 1972 Act. At present, if a local authority gives notice of such an intention any objector to its proposal will expect that, if the resolution is passed, the resolution will require the approval of the Secretary of State or the Welsh Ministers to take effect. It is possible that this expectation may influence the representations he chooses to make and whom he chooses to make them to (e.g. the Secretary of State directly rather than the local authority). However, in almost every case objectors raise all their objections directly with the relevant local authority in order to try to persuade the authority not to pass the resolution.

5.24 It is also possible that an objector may decide to delay challenging in court an amalgamation resolution that he believes is invalid until the Secretary

of State or the Welsh Ministers has or have decided whether or not to approve it.

5.25 However, if a resolution which was passed before the proposed Order comes into force is caught by the transitional provision the effect of the provision will be that - contrary to the public's earlier expectation - the resolution will take effect without an approval from the Secretary of State or Welsh Ministers.

5.26 However, the risk of anyone being adversely affected by the transitional provision will be drastically reduced if, where a local authority intends to pass an amalgamation resolution and the resolution may be caught by the new provision, potential objectors are made aware of this possibility from the outset.

5.27 The Department for Transport will therefore write to all local authorities to make them aware of the transitional provision and to encourage them to publicise it in relation to any cases to which it may apply to ensure that any potential objectors are aware of the effect of the provisions and pointing out to them the need to leave time for the process to be completed before the proposed Order comes into force.

.

5.28 If objections are raised in relation to a local authority's proposal to pass an amalgamation resolution, the authority's consideration of the objections should not be influenced by the existence of the transitional provision proposed. If the authority does not give full and proper consideration to all representations made to it, its resolution will be open to judicial review in the usual way.

Consultation

5.29 The need for an appropriate transitional provision (under section 1(8) of the Legislative and Regulatory Reform Act 2006) to cover amalgamation resolutions made before the date on which the proposed Order comes into force, but which have not been approved or disapproved before that date, became apparent after, but not as a result of, the consultation exercise. Further full scale consultation was not deemed necessary or appropriate because the provision does not alter the substance of the proposal upon which we consulted; it concerns the application of the proposal to certain resolutions.

5.30 However, a small scale supplementary consultation was carried out involving five key organisations to identify any concerns or problems with this provision. The organisations were Institute of Licensing, James Button Solicitors, Isle of Wight Council[8] (all of whom responded to the main consultation), National Association of Licensing and Enforcement Officers and

[8] The Isle of Wight council has now gone through the formal amalgamation procedure, with the approval of the Secretary of State, and is now a single taxi licensing area.

National Taxi Association (the principal national bodies representing licensing officers and the taxi trade respectively). All five consultees were supportive of the proposed transitional provision and none raised any problems.

.

CHAPTER 6 - Local Government (Overseas Assistance) Act 1993: Proposal and Analysis

What are the current burdens?

6.1 The Local Government (Overseas Assistance) Act 1993 gives local authorities in Great Britain the power to provide advice and assistance to bodies engaged outside the United Kingdom in carrying on any of the activities of local government. Under section 1(3) of the 1993 Act, this power shall not be exercised except with the consent of the Secretary of State or in accordance with a general authorisation given by him.

6.2 The most recent authorisation, issued in October 1996, gave a general consent that enables a local authority to give advice and assistance under section 1 of the 1993 Act provided that:

- it is provided under one of the schemes listed in paragraph 1(a) of the authorisation which states that advice/assistance is provided under programmes/schemes sponsored and funded by the European Community, UK Government or multi-national organisations in which the UK Government is a participant; or

- expenditure on advice/assistance, less any charges made for those services, does not in any financial year exceed the amount prescribed - based on the local authority's resident population - in paragraph 1(b) of the authorisation i.e.

Resident Population	Specified Amount
Up to 25,000	£20,000
25,001 - 100,000	£40,000
100,001 - 250,000	£60,000
250,001- 400,000	£80,000
More than 400,000	£100,000

; or

- the provision of advice and assistance arises from town-twinning and the expenditure incurred by the authority in providing that advice and assistance in any financial year costs no more than twice the expenditure of maintaining the town-twinning links (not including expenditure on advice or assistance) incurred in the previous financial year or, if no prior expenditure, proposed for the current financial year.

How does our proposal remove or reduce burdens?

6.3 We are proposing to remove the requirement that action by English and Welsh local authorities under the 1993 Act is subject to consent from the Secretary of State or in accordance with a general authorisation given by the Secretary of State. The general authorisation that exists in relation to England

and Wales will lapse when this requirement is removed. This would remove a burden on local authorities and give them complete freedom to provide advice or assistance to bodies overseas in accordance with the remaining requirements of the 1993 Act. By implication it will also remove a burden from the Secretary of State.

Devolution Issues

6.4 The proposals extend to English and Welsh local authorities only and do not extend to Scottish local authorities. The 1993 Act powers have not been devolved to Wales.

6.5 We would expect the exercise of the 1993 Act powers in Scotland to be principally a devolved matter, and as such would be for the Scottish Executive.

6.6 We recognise, however, that when the principal purpose of using the 1993 Act powers in Scotland is international development, rather than mutual sharing of practice and information to benefit local government both in Scotland and beyond, this would be a reserved matter. In these circumstances we recognise that by limiting the LRO to England and Wales there would remain a need for a Scottish local authority to obtain the Secretary of State's consent or rely on his general authorisation. We do not however see such a situation as likely. Indeed, since the Act came into force we are not aware that there have been any applications for consent by Scottish local authorities to the Secretary of State. There is an existing general authorisation in relation to Scotland which will continue to apply to Scottish local authorities.

Are we proposing or re-enacting burdens?

6.7 No.

Could the policy objective be secured by non-legislative means?

6.8 No. The Order is necessary to meet the policy objective of reducing burdens on local authorities.

Is the provision fair and does it meet the necessary safeguards set out in the 2006 Act?

6.9 We are aware that local authorities, particularly those involved in twinning and international links activities, make use of the powers and have acted under the provisions of the general consent. However, the Secretary of State has never received any individual applications for consent under the 1993 Act provisions. It seems, therefore, that, in using their powers under the 1993 Act, local authorities are not incurring particularly large expenditure which would have required a specific application to the Secretary of State. We therefore believe that the consent requirement and general authorisation are unnecessary pieces of regulation.

6.10 This legislation is out of line with current approaches and local authorities should be free to incur expenditure to provide advice and

assistance, in a manner they deem appropriate. This approach is consistent with provisions in the power of well-being[9] which enables authorities to incur expenditure, without limit, where it promotes social, economic or environmental well-being of the local community. Local authorities' expenditure is audited and they should be accountable to their communities for decisions, including on providing overseas advice and assistance, where this results in local authorities incurring expenditure. We believe that this maintains necessary protections.

6.11 The removal of the consent requirement in the 1993 Act does not affect other requirements in the Act. For example, authorities are unable to use the powers in the Act to make grants or loans or to invest by acquiring share or loan capital, and the Secretary of State's power to issue guidance to local authorities about the exercise of their powers will remain unaffected.

What savings or increases in costs are expected?

6.12 Removal of the consent requirement imposes no additional costs on local authorities. The proposal is one which devolves power by increasing councils' scope to make decisions about providing advice and assistance - any additional expenditure would be determined solely by local authorities.

What other benefits are anticipated?

6.13 There may be some de minimis administrative savings. No other benefits are anticipated.

Summary of relevant consultation responses

6.14 All relevant respondents were fully supportive of the removal of this consent requirement.

[9] s.2 and in particular s.2(4)(a) and (b) Local Government Act 2000: http://www.legislation.hmso.gov.uk/acts/acts2000/00022--b.htm#2

CHAPTER 7 - Education Act 1996 (Paragraph 6(3) of Schedule 1): - Proposal and Analysis.

What are the current burdens?

7.1 Pupil referral units (PRUs) are a type of school established by local authorities for pupils who, because of exclusion, sickness or other reason do not have a mainstream school place. PRUs do not have to provide a full curriculum, but they do have to ensure that the curriculum they offer is broad based, and includes, as a minimum: English; Mathematics; Science; Personal, Social and Health Education (PSHE); Information and Communication Technology (ICT); and careers education and guidance for pupils over the age of 13. There are currently about 450 PRUs in England. Some pupils attend PRUs for a short period, one or two terms, before returning to a mainstream school. But many 15 and 16 year olds remain in a PRU until reaching school leaving age.

7.2 In relation to a PRU, paragraph 6(1) of Schedule 1 to the Education Act 1996 places a duty on the local authority the management committee (where applicable) and the teacher in charge to ensure that the PRU provides a balanced and broadly based curriculum to satisfy the requirements of section 78(1) of the Education Act 2002 (in relation to England) and section 99(1) of the Education Act 2002 (in relation to Wales). Paragraph 6(2) enables regulations to make further provision in relation to the curriculum.

7.3 Paragraph 6(3) imposes a duty on the LA to make arrangements for the consideration and disposal of any complaint that the LA, or the teacher in charge of the PRU, have acted unreasonably or are proposing to do so in exercising any power or duty under paragraph 6(1) or (2), or have failed to discharge any such duty. Arrangements for the consideration and disposal of complaints can only be made with the approval of the Secretary of State or the Welsh Ministers.

How does our proposal remove or reduce burdens?

7.4 We believe that it is unnecessarily bureaucratic for LAs to obtain consent from the Secretary of State or the Welsh Ministers before they can make arrangements to hear such complaints and we therefore propose to amend paragraph 6(3) of Schedule 1 to the Education Act 1996 to remove this consent requirement. This will remove a burden on LAs and, by implication, on the Secretary of State and the Welsh Ministers.

Devolution Issues

7.5 The functions of the Secretary of State under Schedule 1 to the Education Act 1996 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672). The Welsh Assembly Government agreed to the removal of this consent requirement on 27 March 2007. Following the appointment of a new First Minister for Wales, the effect of Schedule 11 of the Government of Wales Act 2006 means that the functions were subsequently transferred to the Welsh Ministers. Section 583(6) of the Education Act 1996 clarifies that this provision does not extend

to Scottish local authorities. This amendment will therefore apply only to English and Welsh local authorities.

Are we proposing or re-enacting burdens?

7.6 No.

Could the policy objective be secured by non-legislative means?

7.7 No. The Order is necessary to meet the policy objective of reducing burdens on local authorities.

Is the provision fair and does it meet the necessary safeguards set out in the 2006 Act?

7.8 We believe this consent requirement is no longer necessary because the amendment to paragraph 6(3) of Schedule 1 will not affect the ability of a person to make a complaint to an LA regarding the curriculum provided at the PRU and will not affect the duty on the LA to make arrangements for the disposal of that complaint. If the LA refuses to provide a process for hearing the complaint or acts unreasonably in doing so, the Secretary of State or the Welsh Ministers will be able to use their intervention powers under section 496 and 497 of the Education Act 1996 to direct the LA accordingly. The provision is therefore fair, it does not remove any necessary protection or prevent any person from exercising their rights.

What savings or increases in costs are expected?

7.9 We are not aware of any applications to the Secretary of State or to the Welsh Ministers (and no further instances have arisen as a result of consultation), so there may only be de minimis savings for LAs from no longer making applications. However, this measure would remove potential future burdens in this area.

What other benefits are anticipated?

7.10 None.

Summary of relevant consultation responses

7.11 All relevant respondents were fully supportive of the removal of this consent requirement.

ANNEX A1: DETAILS OF THE PUBLIC CONSULTATION EXERCISE

The proposals in the draft Order have been subject to extensive consultation. The consultation ran from 20 July 2005 to 14 October 2005 (12.5 weeks), and was conducted in accordance with the provisions of section 5 of the Regulatory Reform Act 2001, and consequently satisfies the requirements of Section 13(3) and 13(4) of the Legislative and Regulatory Reform Act 2006.

The Communities and Local Government also consulted on Section 71 (2) of the Local Government and Housing Act 1989 which has now been taken out of the LRO due to the provision made for the repeal of Part V of that Act in its entirety in Part 12 of the Local Government and Public Involvement in Health Bill, currently before Parliament.

Views were invited on all aspects of the consultation paper, which covered all the proposals detailed in this document. The following specific questions were asked:

a) What do you see as the current burdens imposed by the existing law affected by the proposals?

b) Does the existing law affected by the proposals afford any necessary protections? If so, do the proposals put forward in this consultation exercise maintain necessary protection for those affected? If so, how?

c) Do the proposals put forward in this consultation exercise remove, reduce or create burdens?

d) If a burden is created please comment on whether:

   1 - it is proportionate to the benefit;
   2 - the proposals as a whole strike a fair balance between the public interest and the interests of the persons affected by the burden being created; and
   3 - the extent to which the proposals remove or reduce burdens, or have other beneficial effects for persons affected by the burdens imposed by existing law, makes it desirable for the LRO to be made.

e) Do the proposals remove anomalies and/or inconsistencies?

f) Do the proposals put forward in this consultation exercise prevent any person from continuing to exercise any right or freedom which he might reasonably expect to continue to exercise, as explained in the consultation document? If so, how should the person be enabled to continue to exercise that right or freedom?

g) Do you have any views on the costs and savings as identified in the consultation document and as addressed in the interim Regulatory Impact Assessment? If you consider savings or increases in costs are estimated to result from the proposals, please give reasons why savings

or increases should be expected. If practicable please estimate a monetary value for these costs and savings and say how that amount is calculated.

h) Are there any other benefits that would be gained from the implementation of these proposals?

i) Do you think that these proposals will have an impact on race equality; health; and/or rural issues?

j) Do you have any other comments?

In addition, a supplementary consultation was carried out on a proposal to correct an anomaly, whereby S4(7) of the 1939 Act did not refer to metropolitan district councils, as part of this RRO. This consultation ran from 29 June 2006 to 27 July 2006 (4 weeks) and was also conducted in accordance with the provisions of section 5 of the Regulatory Reform Act 2001.

Annex A3 shows that 100% of respondents for the main consultation supported the proposals on which they commented and no changes have been made to the proposals as a result of the consultation. Copies of the consultation documents were sent to the Regulatory Reform Committee and the Delegated Powers and Regulatory Reform Committee. Annex A3 also shows that 3 of the 4 respondents to the supplementary consultation on the 1939 Act were supportive of correcting the anomaly and remaining respondent raised matters outside the scope of the consultation.

ANNEX A2: LIST OF CONSULTEES

Every effort was made to identify consultees and the consultation document also invited consultees to recommend other interested parties. The consultees were:

All Proposals

All English and Welsh Local Authorities
Local Government Association
Welsh Local Government Association
Welsh Assembly Government
Scottish Executive
Scotland Office
Wales Office
Confederation of British Industry
Local Authorities' Coordinators of Regulatory Services

Cancer Act 1939 proposals

Cancer Research UK
King's Fund
Macmillan Cancer Relief
Cancer BACUP
Marie Curie Cancer Care England
National Council for Hospice and Specialist Palliative Care Services
National Association of Complementary Therapists (Hospice & Palliative Care)
Royal College of Nursing (Complementary Therapies Forum)
The Prince of Wales's Foundation for Integrated Health
Dr Sossie Kassab, Royal London Homeopathic Hospital
Dr E A Thompson, Consultant Homeopathic Physician and Honorary Senior Lecturer in Palliative Care, Bristol Homeopathic Hospital
Breakthrough Breast Cancer

Local Government Act 1972 proposals

Geoff Richardson, Chairman, National Association of Licensing and Enforcement Officers (NALEO)
James Button, Chair, Institute of Licensing
Norman Deegan, Chairman, National Taxi Association
Peter Kavanagh, Transport and General Workers' Union
Mrs Joanna Connolly, Chairman, National Taxi Trades Group
Chris Kelsey, London Taxis International
Metrocab
Bryan Roland**,** National Private Hire Association

[**Local Government (Overseas Assistance) Act 1993 proposals**

Mike Ashley, Local Government International Bureau
Department for International Development
Foreign and Commonwealth Office

Education Act 1996 proposals

All Local Education Authorities

All Pupil Referral Units - Teachers in charge
All Pupil Referral Units - Management committees
The Confederation of Education and Children's Services Managers (ConFed)
Office for Standards in Education (OFSTED)
Advisory Centre for Education (ACE)
National Union for Teachers
Trade Union Congress

Supplementary Consultation on transitional Provisions for Taxi Licensing Proposals (See Para 5.31 of Explanatory Document)

Institute of licensing
James Button Solicitors
Isle of Wight Council
National Association of Licensing and Enforcement Officers
National Taxi Association

Supplementary Consultation on removing an anomaly whereby S4(7) of the 1939 Act did not apply to metropolitan district councils in England.

36 metropolitan district councils
Local Government Association (LGA)
Local Authorities' Coordinators of Regulatory Services (LACORS)
Plus organisations and individuals listed under Cancer Act 1939 proposals

Consultation on Local Government and Housing Act 1989 proposals – not included in LRO (see paragraph 2.2)

Robert Hann, Director, 4ps
Chartered Institute of Public Finance and Accountability
Corporate Law and Goverance
Trades Union Congress
Local Government Information Unit
Institute of Directors

Annex A3: SUMMARY OF RESPONSES (INCLUDING DETAILS OF RESPONDENTS)

The consultation document on the proposed changes to regulation of local authorities in England and Wales through consent requirements has had a small but positive response. There have been 17 people/organisations that have responded and 100% fully supported all proposals on which they commented and which had an impact on them. Nobody supported the do nothing option in the partial Regulatory Impact Assessment. Table 1 shows details of all respondents, a summary of their comments (full comments can be found in Annex C) and the Government's response to each comment where appropriate. The Government response, as set out below, has not been sent directly to consultees.

Table 1: Response to comments of consultees

Comment	Name and position	Organisation	Address	Opinion
1	John Murphy, Principal Licensing Officer	Isle of Wight Council	Jubilee Stores, The Quay, Newport, Isle of Wight PO30 2EH	Positive
Comments on proposed changes to the Local Government Act 1972 Agreed and supported the proposals set out in the consultation document. The council considered the current burdens to be the time it takes to prepare submissions for consent and the relevant costs. They agreed that the proposals would remove the burden of submitting a report and would remove anomalies and inconsistencies, ie by removing the old fashioned system which included separate bye laws and enforcement. The council did not believe that the proposals prevented any person from continuing to exercise a freedom or right. The benefits would be the reduction in costs to trade and the public, and rural issues would be positively impacted upon as the number of taxis driving through rural areas could increase. **Government Response** We welcome the support.				
2	Kris Johnston, Head of Administration and Legal Services	Blaby District Council	Council Offices, Desford Road, Narborough, Leicestershire LE19 2EP	Positive
Comments on all proposed changes Agreed and supported the proposals set out in the consultation document. The council agreed with the burdens as set out in the consultation document, and that proposals would reduce these burdens and would maintain necessary protection. They also felt that the proposals would remove inconsistencies/anomalies, and would not prevent the exercising of rights or freedoms. They added that it is inappropriate to apply consent regimes where authorities can follow their own proper decision-making procedures to determine issues. **Government Response**				

We welcome the support.

3	Keith Osborne, Head of Corporate Services	East Northamptonshire District Council	East Northamptonshire House, Cedar Drive, Thrapston, Northamptonshire, NN14 4LZ	Neutral

Comments on all proposed changes

Generally, agrees and supports any proposals to reduce bureaucracy on local authorities. However, Mr Osborne also comments that the impact of the changes will be negligible on East Northamptonshire District Council because:
1 - the changes to the Cancer Act 1939 and the Education Act 1996 do not impact on district councils [in areas where there is also a county council];
2 - the council does not have any minority interests in companies;*
3 - the council does not see any tangible benefit in the removal of the consent in the LG(Overseas Assistance) Act 1993 as it has been able to work within the general consent when it has been involved in 'twinning', but no objections to the proposal were raised; and
4 - The council has already passed a resolution in 1974 applying the provision of the Local Government Act 1972.

Government Response

We agree that reducing bureaucracy for local government is important. In response to Mr Osborne's comment that the changes will be negligible it is important to point out that the removal of these consent requirements are a part of a larger package of freedoms for local authorities as set out in an announcement in September 2002. Please refer to paragraphs 2.3 -2.7 of this explanatory document for further details. It is also our belief that these provisions will provide benefits to other councils, for example County Councils, those with minority interests in companies*, and those who have not already obtained consent to merge taxi licensing zones.

4	Phil Grafton, Senior Solicitor	Camarthenshire County Council	County Hall, Spilman Street, Carmarthen, Carmarthenshire, SA34 1JP	Positive

Comments on all proposed changes

Agrees and supports the proposals set out in the consultation document. The Council believes that obtaining consents is always time-consuming, often with unnecessary delays and is out of step with the programme to modernise local government. Consent requirements are neither necessary nor proportionate and they cited other protections in existing law including Local Government Monitoring Officers, Scrutiny Committees, Standards Committees, internal and external audit and other regulatory bodies. They believed the proposals would undoubtedly reduce burdens.

Government Response

We welcome the support.

5	Tony Allen, Lead Officer (Without	Trading Standards	c/o Oldham MBC, North House,	Positive

	Portfolio)	Institute	130 Rochdale Road, Oldham, Lancashire, OL1 2JA	

Comments on the proposed changes to the Cancer Act 1939

Agreed and supported the proposals set out in the consultation document. The Institute believe the requirement to seek consent is unnecessary and should be removed. They also believe that the unusual duty to prosecute (as opposed to the normal duty to enforce) provisions in section 4 of the Act should also be removed, although they do not envisage this as a significant change in burdens on local authorities.

Government Response

We welcome the support.

6	Tim Collard, Principal Solicitor	Shropshire County Council	Shirehall, Abbey Foregate, Shrewsbury, Shropshire, SY2 6ND	Positive

Comments on all proposed changes

Agrees and supports the proposals set out in the consultation document.

Government Response

We welcome the support.

7	James T H Button, Solicitor	James Button & Co	7 Devonshire Drive, Rowsley, Matlock, Derbyshire, DE4 2HB	Positive

Comments on the proposed changes to the Local Government Act 1972

James T H Button is the author of 'Taxis - Licensing Law and Practice' published by LexisNexis Butterworths Tolley. He agreed and supported the proposals set out in the consultation document. He believes the requirement to obtain consent is anomalous and is a burden upon local authorities, who undertake considerable amounts of work to meet the requirements. The role of the Secretary of State seems to simply ensure that all legislative steps have been undertaken and therefore is a monitoring role only. If a party is aggrieved by a Council that does not take the necessary steps then the decision can be challenged in the Courts.

Government Response

We welcome the support.

8	Sue Leath, Company Secretary representing 700 members.	The Institute of Licensing	Restormel BC, 39 Penwinnick Road, St. Austell, Cornwall, PL25 5DR	Positive

Comments on the proposed changes to the Local Government Act 1972

The Institute Of Licensing represents approximately 700 licensing practitioners in England

and Wales, a large proportion of which are local authority licensing officers. Their response agreed and supported the proposals set out in the consultation document. They consider the present requirement to seek consent is an unnecessary burden on Local Authorities, entailing a considerable amount of additional work in some cases.

Government Response

We welcome the support.

9	Gill Cameron-Waller	Wealden District Council	Vicarage Lane, Hailsham, BN27 2AX	Positive?

Comments on all proposed changes

Wealden District Council had no particular comments or observations to make but in light of the current agenda for moves towards more local freedom to deliver services, they valued the opportunity for dialogue.

Government Response

We welcome the support.

10	Chris Reed	Colchester Borough Council	PO Box 884, Town Hall, Colchester, CO1 1FR	Positive

Comments on all proposed changes

Agreed and supported the proposals set out in the consultation document.

Government Response

We welcome the support.

11	Ian Miller	Denbighshire County Council	Wynnstay Road, Ruthin, LL15 1AT	Positive

Comments on all proposed changes

Agreed and supported the proposals set out in the consultation document. The Council believes that the protections that are removed by the proposals are largely afforded by alternative legislation or other procedures that are in place. They believe the proposals will reduce burdens and will remove a number of inconsistencies eg the Cancer Act 1939 consent requirement is inconsistent with the general power of local authorities to prosecute. No rights or freedoms are curtailed that are not protected elsewhere. Time and resources for the council would be saved.

Government Response

We welcome the support.

12	Debbie Pennington	Wrexham County Borough Council	The Guildhall, Wrexham, LL11 1AY	Positive

Comments on all proposed changes

Agreed and supported the proposals set out in the consultation document.

Government Response

We welcome the support.

13	Jonathan Rowson, solicitor	Sunderland City Council	Civic Centre, Burdon Road, Sunderland, SR2 7DN	Positive

Comments on all proposed changes

Agreed and supported the proposals set out in the consultation document.

Government Response

We welcome the support.

14	Jane Pollard, Assistant County Solicitor	Warwickshire County Council	P.O. Box 9, Shire Hall, Warwick, CV34 4RR	Positive

Comments on the proposed changes to: the Cancer Act 1939; the Education Act 1996; the Local Government and Housing Act 1989* and the Local Government (Overseas Assistance) Act 1993.

Agreed and supported the proposals set out in the consultation document. In relation to the Cancer Act 1939, the council believes the current burdens are an unnecessary level of bureaucracy potentially leading to undue delays in prosecutions. Local authorities can exercise proper judgements about where the public interest lies in pursuing a prosecution. They believe the proposals provide sufficient protection for those affected and have the potential to speed up the decision-making process, thereby promoting access to justice. The proposals reduce burdens and would bring this piece of legislation into line with the vast majority of other legislative provisions governing prosecutions by local authorities. The Council feels that there might be some savings as a result of this proposal as it removes an unnecessary duplication. In preparing a case for consideration by the Attorney-General the local authority would take legal advice on the extent and the sufficiency of the evidence to be collated. However it is difficult to quantify the extent of these savings as the incidence of cases is so small. Other benefits cited by the authority include reductions in delays in prosecuting these types of offences and potentially better protection for the public.

In relation to the Education Act 1996, Warwickshire CC considers the current burdens are an unnecessary level of bureaucracy. The ability of an individual to complain to the SoS and the power to make directions in cases where the SOS considers the local authority has acted unreasonably is more than sufficient protection. The proposals remove an unnecessary stage in the process of dealing with a complaint, and remove inconsistencies by making it consistent with other complaint regimes for the SoS to be the last rather than the first resort. Other benefits include potentially enabling complaints to be dealt with locally, more efficiently and it would bring the regime into line with other complaint regimes.

In relation to the Local Government and Housing Act 1989*, the legislation is considered impracticable and unworkable if ever brought into force. It would require very complex secondary legislation which would be difficult to enforce or monitor. Other protections

afforded by the general regulatory regime governing local authorities is more than sufficient for this purpose in particular the prudential code and audit arrangements. Repealing the legislation would better reflect the nature of the relationship between central and local government and the levels of responsibility a local authority should be able to exercise in the 21st century.*

In relation to the Local Government (Overseas Assistance) Act 1993, the legislation is considered to impose an unnecessary level of bureaucracy on local government. The prudential regime and audit arrangements are considered more than sufficient to protect the public purse, and the proposals remove unnecessary bureaucracy.

Government Response

We welcome the support.

15	Peter Nicholls, Legal Services Director	Leicester City Council	Leicester City Council, New Walk Centre Welford Place Leicester LEI 6ZG	Positive

Comments on the proposed changes to the Local Government (Overseas Assistance) Act 1993; and the Education Act 1996

Agreed and supported the proposals set out in the consultation document. Removal of the consent requirement for the Local Government (Overseas Assistance) Act 1993 would give local authorities complete freedom to provide advice and assistance and Local Authorities would remain accountable to their communities for decisions where expenditure is incurred.

Government Response
We welcome the support.

16	Anne Tunnicliffe, Business and Policy Manager	Cheshire County Council	Cheshire County Hall, Chester, CH1 1SQ	Positive

Comments on the proposed changes to the Education Act 1996

Agreed and supported the proposals set out in the consultation document.

Government Response

We welcome the support.

17	Cheri Lloyd Policy Officer	Local Authorities Coordinators of Regulatory Services	10 Albert Embankment, London SE1 7SP	Positive

Comments on the proposed changes to the Cancer Act 1939

Agreed and supported the proposals set out in the consultation document.

Government Response

***** Local Government & Housing Act 1989 proposals no longer in LRO

We welcome the support.

PROPOSED CHANGES TO THE LOCAL GOVERNMENT ACT 1972: SUMMARY OF RESPONSES TO SUPPLEMENTARY CONSULTATION (INCLUDING DETAILS OF RESPONDENTS)

A small scale supplementary consultation was carried out on proposals for a transitional provision (under section 1(6)(c) of the Regulatory Reform Act 2001) to cover amalgamation resolutions for taxi licensing zones made before the date on which the proposed Order comes into force, but which have not been approved or disapproved before that date. The need for transitional provisions became apparent after, but not as a result of, the main consultation exercise. Further full scale consultation was not deemed necessary or appropriate because the provision does not alter the substance of the proposal upon which we consulted; it concerns the application of the proposal to certain resolutions.

Consultation was carried out with five key organisations to identify any concerns or problems with this provision. All fully supported the proposals. Table 2 shows details of all respondents, a summary of their comments (full comments can be found in Annex C) and the Government's response to each comment where appropriate. The Government response, as set out below, has not been sent directly to consultees.

Table 2: Response to comments of consultees

1	Sue Leath Company Secretary	Institute of Licensing	c/o Restormel BC 39 Penwinnick Road St Austell, Cornwall PL25 5DR	Positive
Comments on proposed transitional provisions No concerns in relation to this proposal. **Government Response** We welcome the support.				
2	James TH Button Solicitor	James Button Solicitors	7 Devonshire Drive, Rowsley, Matlock, Derbyshire, DE4 2HB	Positive
Comments on proposed transitional provisions Agreed and supported the proposal to allow amalgamation resolutions which have been made before the LRO comes into force to take effect automatically 35 days after the LRO comes into force. Cannot foresee any problems with this approach. **Government Response** We welcome the support.				

3	John Murphy Principal Licensing Officer	Isle of Wight Council	Jubilee Stores, The Quay, Newport, Isle of Wight PO30 2EH	Positive

Comments on proposed transitional provisions

Agreed and supported the proposal. This would be a very acceptable way forward and sees no reason for not adopting this approach.

Government Response
We welcome the support

4	Linda Lauderdale, National Chair	National Association of Licensing and Enforcement Officers	c/o Principal Licensing Officer, Denbighshire County Borough Council, Russell House, Churton Road, Rhyl, LL18 3DP	Positive

Comments on proposed transitional provisions

Agreed and supported the proposal; did not see any problems with it; would allow individual authorities a further (welcomed) period of time to manage and plan for the effect of the resolution to amalgamate.

Government Response
We welcome the support.

5	Tim Gray Secretary	National Taxi Association	National Taxi Association Infirmary Street Newtown Carlisle, CA2 7AA	Positive

Comments on proposed transitional provisions

Generally, taxi licensing matters should be left to local authorities; so no objection to the Secretary of State not being involved.

The decision whether or not to amalgamate zones should be left to local authorities; dezoning does not suit all areas.

Government Response
We welcome the support

SUMMARY OF RESPONSES TO SUPPLEMENTARY CONSULTATION ON REMOVING AN ANOMALY WHEREBY S4(7) OF THE 1939 ACT DID NOT APPLY TO METROPOLITAN DISTRICT COUNCILS IN ENGLAND (INCLUDING DETAILS OF RESPONDENTS)

The consultation held in July 2005 included a proposal to remove the requirement on local authorities to seek the consent of the Attorney General in accordance with section 4(6) of the 1939 Act before instituting a prosecution under that section, and to amend section 4(7) of the 1939 Act to make clear that the specified local authorities have discretion on whether or not to prosecute in any particular case rather than a duty. It was then discovered that, since the abolition of the metropolitan county councils by the Local Government Act 1985, the function of prosecuting under section 4(7) of the Act was not transferred to metropolitan district councils in England.

A small-scale supplementary consultation was therefore carried out on a proposal to amend the Cancer Act 1939 so that metropolitan district councils have the same powers available to their counterparts elsewhere in the country.

Consultation was carried out with the metropolitan district councils, LGA, LACORS and key cancer organisations to identify any concerns or problems with this supplementary proposal. Table 3 shows details of all respondents, a summary of their comments (full comments can be found in Annex C) and the Government's response to each comment where appropriate. The Government response, as set out below, has not been sent directly to consultees.

Table 3: Response to comments of consultees

1	Stuart Fletcher Contentious Team Manager – Legal Services	Rotherham Metropolitan Borough Council	c/o The Town Hall The Crofts Moorgate Street Rotherham South Yorkshire S60 2TH	Positive
Comments on proposed changes to the Cancer Act 1939 Agreed and supported the proposed amendment to include Metropolitan authorities in the list of local authorities in section 4(7) of the 1939 Act, and to make clear that the specified local authorities have discretion on whether or not to prosecute in any particular case rather than a duty. **Government Response** We welcome the support.				
2	Wendy Martin Assistant Director	LACORS	LACORS LG House Smith Square London SW1P 3HZ	Positive
Comments on proposed changes to the Cancer Act 1939 Noted that it is generally trading standards services that are given the responsibility of investigating false claims about the cancer curing properties of goods on the market within				

local authorities, and that it would be a complete anomaly if metropolitan boroughs should not explicitly be given the authority to take action available to other local trading standards services.

Government Response
We welcome the support.

3	Graham Hebblethwaite Chief Officer	West Yorkshire Joint Services	PO Box 5 Nepshaw Lane South Morley Leeds LS27 0QP	Positive

Comments on proposed transitional provisions

Agreed and supported the proposed amendment to include Metropolitan authorities in the list of local authorities in section 4(7) of the 1939 Act, and to make clear that the specified local authorities have discretion on whether or not to prosecute in any particular case rather than a duty.

Government Response
We welcome the support

4	Dr.Michael Crawford	Consultant Medical Oncologist, Airedale General Hospital	Skipton Road Steeton Keighley West Yorkshire BD20 6TD	No comment/query

Comments on proposed transitional provisions

No comment on the proposal being consulted on but noted that elements of the legislation are out of date ie. whilst it is still necessary to protect the public from charlatans selling ineffective cancer remedies, NHS organisations and cancer charities may potentially be in violation of the Act. Suggested that the Act should be amended to take this into account.

Government Response
This comment is outside the scope of the consultation. However, it should be noted that under the revised 1939 Act it will be made clear that local authorities have a discretion on whether or not to prosecute in any particular case rather than a duty – this should ensure that the 1939 Act is targeted appropriately.

ANNEX B: FULL REGULATORY IMPACT ASSESSMENT

Contents:

1 Title of proposal
2 Purpose and intended effect of measure
3 Consultation
4 Options
5 Costs and Benefits
6 Small Firms' Impact Test (SFIT) and Competition Assessment
7 Enforcement, Sanctions and Monitoring
8 Implementation Delivery Plan
9 Post Implementation Review
10 Declaration

1 Title of proposal

1.1 Changes to the regulation of local authorities through consent regimes. This will involve changes to the following Acts:

- Section 4 Cancer Act 1939;
- Paragraph 25 of Schedule 14 to the Local Government Act 1972;
- Section 1 Local Government (Overseas Assistance) Act 1993; and
- Paragraph 6 of Schedule 1 to the Education Act 1996.

1.2 The changes are set out in the draft Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2007.

2 Purpose and intended effect of measure

Objective

2.1 To increase local authorities' accountability to the communities they serve and decrease unnecessary bureaucracy and controls by repealing legislation which requires local authorities to seek the consent of the Secretary of State or the Welsh Ministers, and in one instance the Attorney General, to take action.

Background

2.2 This proposal concerns the removal of local authority consent requirements – statutory requirements to obtain the consent of the Secretary of State or the Welsh Ministers, or in one case, the Attorney General, before authorities are able to take action locally. Like other regulation, consent requirements can be valuable measures in protecting the interests of all of the local community. However, used unnecessarily, they can discourage creativity and erode accountability. They also typify the 'Whitehall knows best' approach to service delivery which can be frustrating to councils who are generally better positioned to make judgments on local need.

2.3 In 1997 a group comprising central and local government officials was tasked with identifying, reviewing and giving recommendations on consent requirements on local authorities. Their findings, published in the *Efficiency Scrutiny Review*[10] recommended that a number of consent powers should be de-regulated. Bureaucracy reduction for local authorities was reinforced in the December 2001 White Paper *Strong Local Leadership – Quality Public Services*[11] which said that consent requirements for all local authorities would be reduced. Following the White Paper, in September 2002, the Government announced[12] that it would de-regulate a total of 84 consent regime powers.

2.4 The September 2002 announcement was welcomed by the Local Government Association (LGA) whose contribution to the Press Notice said *"The LGA welcomes this government announcement. We have been pressing the government for some time about progress on consent regimes powers and this announcement on progress and further repeal should result in significant time savings for local authorities".*

2.5 The majority of these consent requirements have been addressed as part of wider reform in particular service areas. For example, the removal of

[10] Report of an Efficiency Scrutiny of Central Consent Regimes for Local Authorities, Department of the Environment, March 1997, Product Code 96LGI16002, Available from Department for Communities and Local Government, PO Box 236, Wetherby, West Yorkshire, LS23 7NB, Tel: 0870 1226 236, Fax 08760 1226 237

[11] Strong Local Leadership - Quality Public Services, Department for Transport, Local Government and the Regions, December 2001, ISBN 0 10 153272 5, http://www.communities.gov.uk/pub/215/StronglocalleadershipQualitypublicservicesDTLR2001PartOne_id1165215.pdf

[12] News Release 2002/0307: 3 September 2002 'Government Gives Councils Greater Freedom on Local Decisions' (ODPM 065),

four consent requirements has been taken forward in the Local Government Act 2003 and Waste Emissions and Trading Act 2003. It has been possible for other consent requirements to be deregulated through regulations. However, there are a number of consent requirements for which there were no imminent vehicles through which to de-regulate. The Communities and Local Government is therefore committed to take forward a LRO to de-regulate some of these other consent requirements.

Summary of consent requirement details

2.6 *Cancer Act 1939*

To remove from the Cancer Act 1939 the requirement for English and Welsh local authorities to obtain Attorney General's consent before instituting prosecutions for publishing certain advertisements concerning cancer treatment and to make clear that the specified local authorities have a discretion on whether or not to prosecute in any particular case rather than a duty; and to remove an anomaly whereby S4(7) of the 1939 Act did not apply to metropolitan district councils in England.

2.7 *Local Government Act 1972*

To remove the need for a local authority in England or Wales to obtain the Secretary of State's or the Welsh Ministers approval to a resolution applying section 171(4) of the Public Health Act 1875 to its area so that it can amalgamate taxi licensing zones in its area.

2.8 *Local Government (Overseas Assistance) Act 1993*

To remove the requirement that action by English and Welsh local authorities under the 1993 Act is subject to consent from the Secretary of State or in accordance with a general authorisation given by him. This would give authorities complete freedom to provide advice and assistance to bodies overseas in accordance with the remaining requirements of the 1993 Act. The proposals do not apply to Scottish local authorities.

2.9 *Education Act 1996*

To amend paragraph 6 of Schedule 1 to the Education Act 1996 to remove the requirement on local education authorities to seek the Secretary of State's or the Welsh Ministers approval with regard to their arrangements for the consideration and disposal of any complaint that the local authority, or teacher in charge of the Pupil Referral Unit, have acted unreasonably with respect to certain functions or have failed to discharge their duty to provide a balanced and broadly based curriculum at a Pupil Referral Unit.

Rationale for government intervention

2.10 Improving the delivery of public services is one of the Government's top priorities. Since 1997, there has been an ongoing programme of reform and modernisation across our public services. One of the key measures Government has been taking forward is to cut the amount of unnecessary bureaucracy placed on those providing public services. If we do nothing then these consent requirements will still be in place and will lead to unnecessary bureaucracy.

3 Consultation

Within government

3.1 Communities and Local Government is leading on this proposal and are in contact with the relevant other Government Departments, including the Department of Health, the Department for Schools, Children and Families, the Department for Transport, the Welsh Assembly Government, and the Attorney General. They are also in contact with the National Assembly for Wales and the Scottish Executive.

Public consultation

3.2 A consultation document was published on 20 July 2005. It looked at each of the consents regimes closely. The consultation closed on 14 October 2005 and an analysis and all responses were published on 13 September 2006[13]. We received a small number of responses (17). However, they were very supportive of the proposals.

3.3 Regarding proposals for amendment of the *Local Government Act 1972,* the need for an appropriate transitional provision (under section 1(8) of the Legislative and Regulatory Reform Act 2006) became apparent after, but not as a result of, the consultation exercise. Further full scale consultation was not deemed necessary or appropriate because the provision does not alter the substance of the proposal upon which we consulted; it concerns the application of the proposal to certain resolutions.

3.4 However, a small scale supplementary consultation was carried out involving five key organisations to identify any concerns or problems with this provision. The organisations were Institute of Licensing, James Button Solicitors, Isle of Wight Council (all of whom responded to the main consultation), National Association of Licensing and Enforcement Officers and National Taxi Association (the principal national bodies representing licensing officers and the taxi trade respectively). All five consultees were supportive of the proposed transitional provision and none raised any problems.

3.5 Regarding the proposal on the 1939 Cancer Act, it was discovered (following the initial consultation) that, since the abolition of the metropolitan county councils by the Local Government Act 1985, the duty to institute proceedings under section 4(7) of the Act was not transferred to any authority within the metropolitan county areas in England. A small-scale supplementary consultation was therefore carried out on a proposal to amend the 1939 Act so that metropolitan authorities have the same powers available to their counterparts elsewhere in the country. The consultation was carried out with the 36 metropolitan district councils, LGA, LACORS and key cancer

[13] Proposed changes to the delivery of Local Authority Freedoms and Flexibilities under CPA 2005 - Analysis and responses.
http://www.communities.gov.uk/pub/868/ConsultationonProposedChangestotheDeliveryofLocalAuthorityFreedomsandFlexibilits_id1502868.pdf

organisations to identify any concerns or problems with this supplementary proposal. 3 of the 4 respondents to the supplementary consultation were supportive of correcting the anomaly and the remaining respondent raised matters outside the scope of the consultation.

4 Options

4.1 Two options have been identified:

A) do nothing; and

B) remove these consent requirements.

Option A - do nothing

4.2 Apart from the proposed Legislative Reform Order, there are no imminent vehicles through which to de-regulate these consent requirements. If we did nothing then these consent requirements would still be potential burdens on local authorities and a limit to their freedom to act.

Option B - Remove these consent requirements by using a Legislative Reform Order (LRO)

4.3 It is proposed that these consents are removed using a Legislative Reform Order (LRO). LROs were introduced to reduce burdens and consent requirements that represent a clear burden and restraint on local authorities' ability to provide services which best meet the needs of local people.

4.4 This LRO proposes to de-regulate four consent requirements as detailed in paragraphs 2.6 - 2.10 of this Annex. The LRO extends to England and Wales. We have set out devolution issues explicitly in chapters 4-8 about the individual consent regimes. There are no proposals for any of the provisions to extend to Scottish local authorities.

4.5 The LRO power enables a Minister of the Crown to reform legislation that imposes burdens. There is a statutory duty to consult those affected by the proposals.

4.6 The consultation document invited views and comments on the case for deregulation for the following consent requirements and a number of specific questions were set out in the consultation document. The respondents were strongly in favour of taking forward all of the proposals.

5 Costs and Benefits

Sectors and groups affected

5.1 These proposals mainly affect local authorities and central government. We have considered Race Equality Impact Assessment; Health Impact Assessment and Rural Considerations and do not believe that any of these measures will have a disproportionate impact in these areas. The consultation document specifically invited views on the impact on these groups and sectors. Where respondents commented, they did not believe that the proposals would have an impact.

Process involved in a typical request for consent

5.2 To give an indication of the nature of the burden on local and central Government the box below gives an example of the process of getting consent for a typical amalgamation of a taxi zone. Obviously, all consent regimes are different and this is just an example.

Description of approving a typical amalgamation resolution in England.

Where a local licensing authority has made a resolution, it cannot have effect until it has been approved by the Secretary of State. In order for the Secretary of State to make an informed decision about approval, it is necessary for the local licensing authority to provide a comprehensive submission. Such a submission would normally be prepared by the local Taxi Licensing Officer.

The submission to the Secretary of State would be expected to cover such issues as: the local authority's reasons for deciding to amalgamate; the likely implications for the trade and passengers in terms of shifting patterns of operation; the implications of associated taxi licensing policies (eg whether taxi numbers are controlled and whether taxi fares are likely to be raised in any of the zones to achieve a harmonised tariff throughout the area); evidence that the "requisite notice" (specified in paragraph 25(5) of Schedule 14 to the Local Government Act 1972) was given; an assessment of the representations which were received in response to the notice, including any objections; a comment on any objections and relevant background information (numbers of taxis in each zone; the size of each zone, bearing in mind that the distance within which a taxi driver would be compelled to accept a hiring might be increased substantially, and perhaps a map of the area).

On receiving a request for approval from a local licensing authority in England, Department for Transport (DfT) officials consider the case for approval put forward in the submission, involving lawyers and economists as necessary. In controversial cases, the local taxi trade will put objections directly to the Secretary of State and these will be taken into account as part of the deliberation process. If necessary, officials will send copies of the objections to the local licensing authorities asking for their observations. The local authority's observations will then be taken into account in compiling a

summary of the case for approval. The Secretary of State will weigh up the pros and cons and ultimately reach a decision on whether to approve. This process can take less than a month in straightforward cases, or it can take more than two months depending on the degree of controversy.

If approval is granted by the Secretary of State, DfT officials convey this information to the local licensing authority and agree a coming into operation date (which must be specified in the Secretary of State's approval) which is normally at least four weeks after approval has been granted. Officials would also convey the decision to those who sent objections to the Secretary of State.

How often has each consent been used?

5.3 *Cancer Act 1939*
The Attorney General received 11 applications between 2000 and 2006 from councils in England and no applications from councils in Wales. He gave consent to 8 of these applications, rejected 2 and 1 was withdrawn. Of the two that did not receive consent, one was because there was insufficient evidence for a realistic prospect of conviction and for the other the council wanted to issue a caution rather than to prosecute.

5.4 *Local Government Act 1972*
The Secretary of State receives about one or two applications for consent per year. In the past 13 years the Secretary of State has only on two occasions refused to approve an amalgamation resolution. The resolutions in question were not approved because there was insufficient evidence that the "requisite notice" (specified in paragraph 25(5) of Schedule 14 to the Local Government Act 1972) had been given. This consent has not been used in Wales in recent years.

5.5 *Local Government (Overseas Assistance) Act 1993*
We are aware that whilst local authorities make use of the powers and have acted under the provisions of the general authorisation the Secretary of State has never received any individual applications for consent.

5.6 *Education Act 1996*
We understand that there have been no applications to the Secretary of State or the Welsh Assembly Government in at least the last two years.

Breakdown of costs and benefits: Option A - Do nothing

5.7 Benefits - For the majority of these consent requirements there are no economic, environmental or social benefits from doing nothing. However, in relation to the taxi amalgamation consent it can be argued that this consent requirement represents a safeguard. In practice, taxi drivers, who have been affected by local authority decisions, have occasionally made representations

to the Secretary of State knowing that he may consider their representations when making a decision on whether or not to approve a council's resolution.

5.8 Cost - The cost of doing nothing is the continuation of unnecessary bureaucracy burdens on local authorities. There is also an administration cost and delay cost for local authorities and central government when these consent requirements are used. Our understanding is that this is not a prohibitive cost. Consultees were asked for views on costs and savings during the consultation exercise but no specific information was received. However consultees agreed that the current consent requirements imposed a burden both in terms of time and resources.

Breakdown of costs and benefits: Option B - Remove these consent requirements

5.9 Benefits - The main benefit of removing these consent requirements will be the reduced bureaucracy burden on local authorities who will benefit from a greater freedom. There will also be administration cost savings.

5.10 Costs - Our understanding is that there are no substantial adverse social, economic or environmental costs through removing these consent requirements. Any additional costs would now be determined by the local authorities.

5.11 These changes will not introduce any new burdens.

6 Small Firms' Impact Test (SFIT) and Competition Assessment

6.1 The Small Firms' Impact Test and the Competition Assessment were applied to the proposed removal of consent requirements.

6.2 The Small Business Service was consulted and they do not think that the removal of these consent requirements will have a significant impact on small businesses.

6.3 The Competition Assessment involved answering questions, including: "Will the market be affected by the proposed changes?", "Will the proposals change a market structure?" and "Will changes lead to increased costs for firms?" Following this test we do not believe that the removal of these consent requirements will impact on competition. In addition, none of the consultees disagreed with this assessment.

7 Enforcement, Sanctions and Monitoring

Enforcement

7.1 This proposal removes burdens from local authorities therefore this section is not needed.

Sanctions

7.2 This proposal removes burdens from local authorities therefore this section is not needed.

Monitoring and review

7.3 This proposal is a part of a larger package of bureaucracy reduction measures for local authorities. Its impact may be assessed as part of any future studies into bureaucracy reduction for local authorities.

8 Implementation and Delivery Plan

8.1 It is proposed that these consent regimes are removed using a Legislative Reform Order (LRO) introduced by the Communities and Local Government. This came into effect in June 2007.

8.2 As the Order relates to the duties and powers of local authorities, the Communities and Local Government has taken the lead in carrying out the necessary consultation exercise and preparing the Order. Communities will also take the lead in informing all local authorities, through e-mail and an announcement on the 'info4local' website, of the effects of the amendments to the Local Government (Overseas Assistance) Act 1993.

8.3 The Department of Health advised on policy on the Cancer Act provisions, and carried out the necessary supplementary consultation. It is Trading Standards Officers that initiate the prosecutions under this Act and, following implementation of the Order, the Local Authorities Coordinators of Regulatory Services (LACORS) will send a specialist e-mail to heads of trading standards and to fair trading specialists to inform them of the change and provide a link to more detailed information on either the DH or Communities website. In addition the Department of Health intend to include a note in their Chief Executive's Bulletin which is e-mailed to, among others, Council Chief Executives in England alerting them to the change, asking them to ensure that relevant staff are informed, and providing a link to more detailed documentation.

8.4 The Department for Transport advised on policy on provisions for taxi licensing zones in the amendment to the Local Government Act 1972, and carried out the necessary supplementary consultation. Following implementation the Department for Transport propose to write to all local authorities to make them aware of the proposals and transitional provisions

and to encourage them to publicise it in relation to any cases to which it may apply.

8.5 The Department for Children, Schools and Families has responsibility for consents to hear complaints under the Education Act 1996. As DcSF have not received any applications for the Secretary of State's approval in regard to this consent over the last two years no action is proposed to further publicise changes to the Education Act 1996. This is in line with the Departments policy to reduce the information burden placed on local authorities and schools

8.6 Welsh Ministers - this Order has been presented to the Welsh Assembly Government for formal agreement to those provisions applying to local authorities in Wales. Following the making of the Order the Welsh Assembly Government will inform the relevant local authorities by letter

9 Post-Implementation Review

This proposal is a part of a larger package of bureaucracy reduction measures for local authorities. Its impact may be assessed as part of any future studies into bureaucracy reduction for local authorities.

10 Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed **Iain Wright**

Date 18/7/07

Minister's name, title, department
Iain Wright
Parliamentary under Secretary of State for Communities and Local Government

Contact point for enquiries and comments:

Siobhan Scott
Innovation and Excellence
Local Improvement Support
Communities and Local Government
Zone 5/A2
Eland House
Bressenden Place
London
SW1E 5DU

ANNEX C: FULL RESPONSES TO THE CONSULTATION PAPER

Attached separately to this document.