



The Levelling Up and Regeneration Bill

Blog by Helen McGrath – Head of Public Affairs – Lawyers in Local Government

The 17th October 2023 gets us as close to provision for remote local authority meetings in England as we have ever been. This is the date set for the Commons to consider the Lords amendments in the Levelling Up and Regeneration Bill (“the Bill”) to include remote provision akin to that provided under the [coronavirus regulations](#). The amendment only passed by 15 votes, and I extend here, an enormous amount of gratitude on behalf of LLG to Baroness McIntosh of Pickering, for her eloquence and persistence in this matter. It is well worth reading the House of Lords debate which starts at paragraph 58 of the [Hansard transcript](#).

Can we possibly dare to dream that remote meeting provision will finally become law? Let’s consider what we actually know, (invariably the best place to start I find). The government, (it is widely reported), is keen to get the Bill finalised to make it into the Kings speech on 7th November 2023. They are also under pressure on devolution. Now, there were [418 amendments](#) to the Bill tabled in the Lords. There were 192 sections and 17 schedules when the Bill was first laid. It is fair to say, this is a very hefty piece of legislation.

In respect of remote meeting provision, would the government be prepared to deprive local authorities of the ability to choose how they conduct their own affairs and enter into ping-pong? Well, the government would in my opinion - they have made that position crystal clear repeatedly. Would this obliterate any hope of getting royal assent by January 2024? Probably not, ping-pong can happen rather fast and as the majority in favour in the Lords was so close, it could be the strategy of choice. Could they consider more drastic action to prevent provision? Well, there are powers in the Parliament Acts for Parliament to overturn the Lords amendments in certain circumstances without a protracted period of ping-pong.

This applies only where the bill has been sent up to the Lords at least one calendar month before the end of each session; and one year must elapse between the second reading in the Commons in the first session and the passing of the bill by the Commons in the second. The Lords are deemed to have rejected a bill if they do not pass it, either without amendment or with such amendments only as are acceptable to the Commons. The second reading of the first session took place on 8th June 2022. However, it is important to note that the Bill in the second session must be identical to the Bill sent from the Commons in the first session, with the exception of amendments either made necessary by the passage of time or made by the Lords in the first session.

Such a move, if possible, would be a big step. The Speaker of the House of Commons has to certify that the conditions set out in section 2 of the Parliament Act 1911, as amended, have been complied with. Only seven Bills have become Acts utilising the procedure and they are worth listing: -

Government of Ireland Act 1914
Welsh Church Act 1914
Parliament Act 1949
War Crimes Act 1991
European Parliament Elections Act 1999
Sexual Offences (Amendment) Act 2000
Hunting Act 2004

Some constitutional lawyers have expressed doubts about the Parliament Act 1949. The Countryside Alliance's challenge of the Hunting Act 2004, that of Jackson and others v Her Majesty's Attorney General heard arguments about the extent of the rights of the House of Commons to legislate without the agreement of the House of Lords.

The case was heard by the Court of Appeal in 2005. The Court of Appeal dismissed the appeal and accepted that the 1911 Act could be used to amend itself "to the extent contained in the 1949 Act". The Court of Appeal was not prepared to go further and questioned whether the Parliament Acts could be used to fundamentally change the relationship between the House of Commons and the House of Lords.

When the case was heard by the House of Lords, both parties wanted clarification. The nine Law Lords dismissed the appeal, and a number of Law Lords disagreed with the Court of Appeal's on the extent of the limits on the ability to use the Parliament Acts to fundamentally change the relationship between the Houses. (source – [parliament research](#) briefing).

The sector is really very close to remote provision. If successful, it will be the culmination of 3 years of campaigning and one Judicial Review for LLG and ADSO. It will also mark the collaborative and at times daily work between ADSO and LLG and signifies the cumulative impact a wide variety of organisations who came together with one objective can have (including NALC, SLCC, CfGS and the LGA).

Watch this space.....

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LLG

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