

Local Government Act 2000

2000 CHAPTER 22

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An Act to make provision with respect to the functions and procedures of local authorities and provision with respect to local authority elections; to make provision with respect to grants and housing benefit in respect of certain welfare services; to amend section 29 of the Children Act 1989; and for connected purposes.

[28th July 2000]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:-

Extent

Preamble: England, Wales

PART I

PROMOTION OF ECONOMIC, SOCIAL OR ENVIRONMENTAL WELL-BEING ETC

Interpretation

✔ Law In Force

! Amendment(s) Pending

1. Meaning of “local authority” in Part I.

[(1) In this Part “local authority” means –

- (a) in relation to England–
 - (i) a county council,
 - (ii) a district council,
 - (iii) a London borough council,
 - (iv) the Common Council of the City of London in its capacity as a local authority,
 - (v) the Council of the Isles of Scilly,
 - (vi) an eligible parish council,
- (b) in relation to Wales, a county council or a county borough council.

(2) A parish council is “eligible” for the purposes of this Part if the council meets the conditions prescribed by the Secretary of State by order for the purposes of this section.]¹

Notes

- ¹ Existing s.1 renumbered as s.1(1), s.1(a)(vi) and s.1(2) inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 4 c.2 s.77 (April 1, 2008 in so far as it confers powers to make an order under 2000 c.22 s.1(2); December 31, 2008 otherwise)

Amendments Pending

Pt I s. 1(1)(b): words inserted by Local Government (Wales) Measure 2011 c. 04, Pt 7 c. 6 s. 126(1) (July 10, 2011)

Commencement

Pt I s. 1(a)-(b): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Extent

Pt I s. 1(1)-(b): England, Wales

Promotion of well-being

Law In Force

Amendment(s) Pending

2.— Promotion of well-being.

(1) Every local authority are to have power to do anything which they consider is likely to achieve any one or more of the following objects—

- (a) the promotion or improvement of the economic well-being of their area,
- (b) the promotion or improvement of the social well-being of their area, and
- (c) the promotion or improvement of the environmental well-being of their area.

(2) The power under subsection (1) may be exercised in relation to or for the benefit of—

- (a) the whole or any part of a local authority's area, or
- (b) all or any persons resident or present in a local authority's area.

(3) In determining whether or how to exercise the power under subsection (1), a local authority [in England]¹ must have regard to their strategy under section 4.

[(3A) But, in the case of an eligible parish council, that is subject to section 4A.]²

[(3B) In determining whether or how to exercise the power under subsection (1), a local authority in Wales must have regard to the community strategy for its area published under section 39(4) of the Local Government (Wales) Measure 2009 or, where the strategy has been amended following a review under section 41 of that Measure, the strategy most recently published under section 41(6).]¹

(4) The power under subsection (1) includes power for a local authority to—

- (a) incur expenditure,
- (b) give financial assistance to any person,
- (c) enter into arrangements or agreements with any person,
- (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
- (e) exercise on behalf of any person any functions of that person, and

(f) provide staff, goods, services or accommodation to any person.

(5) The power under subsection (1) includes power for a local authority to do anything in relation to, or for the benefit of, any person or area situated outside their area if they consider that it is likely to achieve any one or more of the objects in that subsection.

(6) Nothing in subsection (4) or (5) affects the generality of the power under subsection (1).

Notes

¹ Modified by Local Government (Wales) Measure 2009 c. 02 Sch.2 para.2 (January 1, 2010: insertion has effect as SI 2009/3272 subject to savings and transitional provisions specified in 2009 nawm 2 Sch.3 paras 1 and 2)

² Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 4 c.2 s.78(2) (December 31, 2008)

Amendments Pending

Pt I s. 2(3C): added by Local Government (Wales) Measure 2011 c. 04, Pt 7 c. 6 s. 126(2) (July 10, 2011)

Commencement

Pt I s. 2(1)-(6): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Extent

Pt I s. 2(1)-(6): England, Wales

Law In Force

3.— Limits on power to promote well-being.

(1) The power under section 2(1) does not enable a local authority to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in any enactment (whenever passed or made).

(2) The power under section 2(1) does not enable a local authority to raise money (whether by precepts, borrowing or otherwise).

(3) The Secretary of State may by order make provision preventing local authorities from doing, by virtue of section 2(1), anything which is specified, or is of a description specified, in the order.

[(3A) The power under subsection (3) may be exercised in relation to—

- (a) all local authorities,
- (b) particular local authorities, or
- (c) particular descriptions of local authority.

] ¹

(4) [Subject to subsection (4A), before] ¹ making an order under subsection (3), the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

[(4A) Subsection (4) does not apply to an order under this section which is made only for the purpose of amending an earlier order under this section—

- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or

(b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

] ¹

(5) Before exercising the power under section 2(1), a local authority must have regard to any guidance for the time being issued by the Secretary of State about the exercise of that power.

(6) Before issuing any guidance under subsection (5), the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

(7) In its application to Wales, this section has effect as if for any reference to the Secretary of State there were substituted a reference to [the Welsh Ministers] ² .

(8) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).[...] ¹

Notes

¹ Modified by Local Government Act 2003 c. 26 Sch.3 para.12 (November 27, 2003 as SI 2003/3034)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(2) (December 30, 2007)

Commencement

Pt I s. 3(1)-(2), (8): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Pt I s. 3(3)-(7): October 18, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2836 art. 2; SI 2000/2948 art. 2)

Extent

Pt I s. 3(1)-(8): England, Wales

Law In Force

4.— Strategies for promoting well-being.

(1) Every local authority must prepare a strategy (referred to in this section as a [sustainable community strategy] ¹) for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the United Kingdom.

(2) A local authority may from time to time modify their [sustainable community strategy] ¹ .

(3) In preparing or modifying their [sustainable community strategy] ¹ , a local authority—

(a) must consult and seek the participation of [–] ²

[(i) in the case of a responsible local authority, each partner authority and such other persons as the responsible local authority consider appropriate, or

(ii) in any other case, such persons as the authority consider appropriate, [...]] ³] ²

[(aa) must, if it is a local authority in England, have regard to the following, so far as they relate to the authority's area—

(i) any arrangements made under section 21 of the Child Poverty Act 2010 (co-operation to reduce child poverty in local area);

- (ii) any local child poverty needs assessment prepared under section 22 of that Act (local child poverty needs assessment);
- (iii) any joint child poverty strategy prepared under section 23 of that Act (joint child poverty strategy for local area), and

] ⁴

(b) must have regard to any guidance for the time being issued by the Secretary of State.

(4) Before issuing any guidance under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

(5) In its application to Wales, this section has effect as if for any reference to the Secretary of State there were substituted a reference to [the Welsh Ministers] ⁵ [, and as if for “sustainable community strategy” there were substituted “community strategy”] ⁶ .

[(6) In subsection (3)(a), “responsible local authority” and “partner authority”, in relation to a responsible local authority, have the same meanings as in Chapter 1 (local area agreements) of Part 5 of the Local Government and Public Involvement in Health Act 2007 (see sections 103 and 104 of that Act). [⁹] ⁸] ⁷

Notes

¹ Words substituted by Sustainable Communities Act 2007 c. 23 s.7(1) (October 23, 2007)

² S.4(3)(a)(i) and (ii) substituted for words by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.114(2) (December 30, 2007)

³ Word repealed by Child Poverty Act 2010 c. 9 Pt 2 s.24(a) (May 25, 2010)

⁴ Added by Child Poverty Act 2010 c. 9 Pt 2 s.24(b) (May 25, 2010)

⁵ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(2) (December 30, 2007)

⁶ Words inserted by Sustainable Communities Act 2007 c. 23 s.7(3) (October 23, 2007)

⁷ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.114(3) (December 30, 2007)

⁸ Modified by Local Government (Wales) Measure 2009 c. 02 Sch.2 para.3 (January 1, 2010: insertion has effect as SI 2009/3272 subject to savings and transitional provisions specified in 2009 nawm 2 Sch.3 para.9)

⁹ **In relation to Wales:**

4.— Strategies for promoting well-being.

(1) Every local authority in England must prepare a strategy (referred to in this section as a sustainable community strategy) for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the United Kingdom.

(2) A local authority may from time to time modify their sustainable community strategy.

(3) In preparing or modifying their sustainable community strategy, a local authority—

(a) must consult and seek the participation of—

(i) in the case of a responsible local authority, each partner authority and such other persons as the responsible local authority consider appropriate, or

(ii) in any other case, such persons as the authority consider appropriate, and

(b) must have regard to any guidance for the time being issued by the Secretary of State.

(4) Before issuing any guidance under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

(6) In subsection (3)(a), “responsible local authority” and “partner authority”, in relation to a responsible local authority, have the same meanings as in Chapter 1 (local area agreements) of Part 5 of the Local Government and Public Involvement in Health Act 2007 (see sections 103 and 104 of that Act).

Commencement

Pt I s. 4(1)-(2), (3)(a): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Pt I s. 4(3): October 18, 2000

Pt I s. 4(3)(b)-(5): October 18, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2836 art. 2(a); SI 2000/2948 art. 2)

Extent

Pt I s. 4(1)-(6): England, Wales

✔ Law In Force

[4A Strategies: parishes

(1) The duty in section 4 to prepare a community strategy does not apply to an eligible parish council.

(2) But in exercising the power under section 2(1), an eligible parish council must have regard to any community strategy prepared by a relevant principal council.

(3) In this section “relevant principal council”, in relation to a parish council, means any county council, district council or London borough council whose area the parish lies within.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 4 c.2 s.78(3) (December 31, 2008)

Extent

Pt I s. 4A(1)-(3): England, Wales

✔ Law In Force

! Amendment(s) Pending

5.— Power to amend or repeal enactments.

(1) If the Secretary of State thinks that an enactment (whenever passed or made) prevents or obstructs local authorities from exercising their power under section 2(1) he may by order amend, repeal, revoke or disapply that enactment.

(2) The power under subsection (1) may be exercised in relation to—

- (a) all local authorities,
- (b) particular local authorities, or
- (c) particular descriptions of local authority.

(3) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.

[(4) In exercising the power under subsection (1), the Secretary of State must not make any provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.

(4A) In exercising the power under subsection (1), the Secretary of State—

(a) must not make any provision amending, repealing or disapplying any Measure or Act of the National Assembly for Wales without the consent of the National Assembly for Wales, and

(b) must not make any provision amending, revoking or disapplying subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.

(4B) Subsection (4A) does not apply to the extent that the Secretary of State is making incidental or consequential provision.]¹

(5) [The Welsh Ministers]² may submit proposals to the Secretary of State that the power under subsection (1) should be exercised in relation to Wales in accordance with those proposals.

(6) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

Notes

¹ S.5(4)-(4B) substituted for s.5(4) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(3) (December 30, 2007)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(4) (December 30, 2007)

Amendments Pending

Pt I s. 5(7): added by Local Government (Wales) Measure 2011 c. 04, Pt 7 c. 6 s. 126(3) (July 10, 2011)

Commencement

Pt I s. 5(1)-(4)(b), (6): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Pt I s. 5(5): October 18, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2836 art. 2(a); SI 2000/2948 art. 2)

Extent

Pt I s. 5(1)-(7): England, Wales

Modification of certain enactments

Law In Force

6.— Power to modify enactments concerning plans etc.

(1) Subject to subsection (3), the Secretary of State may by order amend, repeal, revoke or disapply any enactment (whenever passed or made) which requires a local authority to prepare, produce or

publish any plan or strategy relating to any particular matter [so far as that enactment has effect in relation to a local authority in England]¹ .

(2) The power under subsection (1) may be exercised in relation to–

- (a) all local authorities [in England]² ,
- (b) particular local authorities [in England]² , or
- (c) particular descriptions of local authority [in England]³ .

(3) The power under subsection (1) may be exercised in relation to a local authority only if the Secretary of State considers–

- (a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or
- (b) that any such enactment should be amended so that it operates more effectively in relation to the authority.

(4) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.

(5)-(6) [...]⁴

(7) An order under this section which would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.

(8) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

Notes

- ¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(5)(a) (December 30, 2007)
- ² Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(5)(b) (December 30, 2007)
- ³ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(5)(c) (December 30, 2007)
- ⁴ Repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(5) para.1 (December 30, 2007)

Commencement

Pt I s. 6(1)-(5)(b)(ii), (7)-(8): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Pt I s. 6(6): October 18, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2836 art. 2(a); SI 2000/2948 art. 2)

Extent

Pt I s. 6(1)-(8): England, Wales

✔ Law In Force

7.— Power to modify enactments concerning plans etc: Wales.

(1) Subject to subsections (4) and (6), [the Welsh Ministers]¹ may by order amend, repeal, revoke or disapply any enactment [(whenever passed or made) which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter]² so far as that enactment has effect in relation to a local authority in Wales.

(2) [...] ³

(3) The power under subsection (1) may be exercised in relation to—

- (a) all local authorities in Wales,
- (b) particular local authorities in Wales, or
- (c) particular descriptions of local authority in Wales.

(4) The power under subsection (1) may be exercised in relation to a local authority only if [the Welsh Ministers consider]⁴ –

- (a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or
- (b) that any such enactment should be amended so that it operates more effectively in relation to the authority.

(5) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.

(6) [...] ³

(7) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

[(8) An order under this section may not make a provision which, if it were a provision of [an Act]⁶ of the National Assembly for Wales, would be outside the Assembly's legislative competence.

(9) For the purposes of subsection (8), [section 108(4) of the Government of Wales Act 2006 (Legislative competence) has effect as if paragraph (a) were omitted.]⁷

(10) Subject to subsection (11), a statutory instrument which contains an order under this section is not to be made unless a draft of the instrument has been laid before and approved by a resolution of the National Assembly for Wales.

(11) A statutory instrument containing an order under this section which is made only for the purpose of amending an earlier such order—

- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,

is to be subject to annulment in pursuance of a resolution of the National Assembly for Wales.

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Notes

¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(6)(a)(i) (December 30, 2007)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(6)(a)(ii) (December 30, 2007)

- ³ Repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(5) para.1 (December 30, 2007)
- ⁴ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(6)(c) (December 30, 2007)
- ⁵ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(7) (December 30, 2007)
- ⁶ Words substituted by Government of Wales Act 2006 (Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications) Order 2011/1011 art.6(2) (May 5, 2011)
- ⁷ Words substituted by Government of Wales Act 2006 (Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications) Order 2011/1011 art.6(3) (May 5, 2011)

Commencement

Pt I s. 7(1)-(7): October 18, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2836 art. 2(a); SI 2000/2948 art. 2)

Extent

Pt I s. 7(1)-(11)(b): England, Wales

Law In Force

8. Modification of section 137 of the 1972 Act.

In section 137 of the Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised), for subsection (9) there is substituted—

“(9) Subject to subsection (10) below, in this section “local authority” means a parish or community council.

(10) In subsection (3) above “local authority” means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council or a parish council,
 - (b) in relation to Wales, a county council, a county borough council or a community council.”
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Commencement

Pt I s. 8: October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Extent

Pt I s. 8: England, Wales

Procedure for orders under section 5 or 6

Law In Force

9.— Procedure for orders under section 5 or 6.

- (1) Before the Secretary of State makes an order under section 5 or 6 he must consult—
- (a) such local authorities,

- (b) such representatives of local government, and
- (c) such other persons (if any),

as appear to him to be likely to be affected by his proposals.

(2) Where those proposals affect any local authorities in Wales, the Secretary of State must also consult [the Welsh Ministers]¹ .

(3) If, following consultation under the preceding provisions of this section, the Secretary of State proposes to make an order under section 5 or 6 he must lay before each House of Parliament a document which—

- (a) explains his proposals,
- (b) sets them out in the form of a draft order,
- (c) gives details of consultation under subsection (1), and
- (d) where consultation has taken place under subsection (2), sets out the views of [the Welsh Ministers]² .

(4) Where a document relating to proposals is laid before Parliament under subsection (3), no draft of an order under section 5 or 6 to give effect to the proposals (with or without modifications) is to be laid before Parliament in accordance with section 105(6) until after the expiry of the period of sixty days beginning with the day on which the document was laid.

(5) In calculating the period mentioned in subsection (4) no account is to be taken of any time during which—

- (a) Parliament is dissolved or prorogued, or
- (b) either House is adjourned for more than four days.

(6) In preparing a draft order under section 5 or 6 the Secretary of State must consider any representations made during the period mentioned in subsection (4).

(7) A draft order under section 5 or 6 which is laid before Parliament in accordance with section 105(6) must be accompanied by a statement of the Secretary of State giving details of—

- (a) any representations considered in accordance with subsection (6), and
- (b) any changes made to the proposals contained in the document laid before Parliament under subsection (3).[...]³

[(8) Nothing in this section applies to an order under section 5 or 6 which is made only for the purpose of amending an earlier order under that section—

- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

] ³

Notes

¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(8)(a) (December 30, 2007)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(8)(b) (December 30, 2007)

³ Added by Local Government Act 2003 c. 26 Sch.3 para.13 (November 27, 2003 as SI 2003/3034)

Commencement

Pt I s. 9(1)-(7)(b): October 18, 2000 in relation to England; April 9, 2001 in relation to Wales (SI 2000/2836 art. 2(a); SI 2001/1411 art. 2)

Extent

Pt I s. 9(1)-(8)(b): England, Wales

Law In Force

[9A Procedure for orders under section 7

- (1) Before the Welsh Ministers make an order under section 7 they must consult—
- (a) such local authorities in Wales,
 - (b) such representatives of local government in Wales, and
 - (c) such other persons (if any),
- as appear to them to be likely to be affected by their proposals.
- (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 7 they must lay before the National Assembly for Wales a document which—
- (a) explains their proposals,
 - (b) sets them out in the form of a draft order, and
 - (c) gives details of consultation under subsection (1).
- (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 7 to give effect to the proposals (with or without modifications) is to be laid before the National Assembly for Wales until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.
- (5) In preparing a draft order under section 7 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).
- (6) A draft order under section 7 which is laid before the National Assembly for Wales must be accompanied by a statement of the Welsh Ministers giving details of—
- (a) any representations considered in accordance with subsection (5), and
 - (b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2).
- (7) Nothing in this section applies to an order under section 7 which is made only for the purpose of amending an earlier order under that section—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.1 s.115(9) (December 30, 2007)

Extent

Pt I s. 9A(1)-(7)(b): England, Wales

PART II**ARRANGEMENTS WITH RESPECT TO EXECUTIVES ETC.***Executive arrangements*

Law In Force

10.— Executive arrangements.

- (1) In this Part “executive arrangements” means arrangements by a local authority—
- (a) for and in connection with the creation and operation of an executive of the authority, and
 - (b) under which certain functions of the authority are the responsibility of the executive.
- (2) Executive arrangements by a local authority must conform with any provisions made by or under this Part which relate to such arrangements.

Commencement

Pt II s. 10(1)-(2): August 7, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2)

Extent

Pt II s. 10(1)-(2): England, Wales

Local authority executives

Law In Force

Amendment(s) Pending

11.— Local authority executives.

- [(1) The executive of a local authority must take a form specified in subsections (2) to (5) that is applicable to the authority.]¹
- (2) [In the case of any local authority in England or Wales, the executive may consist of—]²
- (a) an elected mayor of the authority, and
 - (b) two or more councillors of the authority appointed to the executive by the elected mayor.
- [(2A) In the case of any local authority in England, the executive may consist of—
- (a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and
 - (b) two or more councillors of the authority appointed to the executive by the executive leader.

Such an executive is referred to in this Part as a leader and cabinet executive (England).

] ³

(3) [In the case of any local authority in Wales, the executive may consist of–] ⁴

- (a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and
- (b) two or more councillors of the authority appointed to the executive by one of the following–
 - (i) the executive leader, or
 - (ii) the authority.

Such an executive is referred to in this Part as a [leader and cabinet executive (Wales)] ⁵ .

(4) [In the case of any local authority in Wales, the executive may consist of–] ⁶

- (a) an elected mayor of the authority, and
- (b) an officer of the authority (referred to in this Part as the council manager) appointed to the executive by the authority.

(5) [In the case of a local authority in England or Wales, the executive] ⁷ may take any such form as may be prescribed in regulations made by the Secretary of State.

(6) Regulations under subsection (5) may, in particular, provide for–

- (a) a form of executive some or all of the members of which are elected by the local government electors for the authority's area to a specified post in the executive associated with the discharge of particular functions,
- (b) a form of executive some or all of the members of which are elected by those elected but not to any such post,
- (c) the system of voting that will be used for elections under paragraph (a) or (b).

(7) A local authority executive may not include the chairman or vice-chairman of the authority.

(8) The number of members of a mayor and cabinet executive or a leader and cabinet executive may not exceed 10.

(9) The Secretary of State may by regulations [specify] ⁸ a different maximum number of members of an executive to which [subsection (8)] ⁹ applies, but the power under this subsection may not be exercised [in relation to Wales] ¹⁰ so as to provide for a maximum number which exceeds 10.

[(9A) In this Part, a reference to a leader and cabinet executive is a reference to either or both of the following, as appropriate in the context–

- (a) a leader and cabinet executive (England);
- (b) a leader and cabinet executive (Wales).

] ¹¹

(10) Section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under [subsection (2A)(a) or (3)(a)] ¹² or appointing councillors or an officer to the executive under subsection (3)(b)(ii) or (4)(b).

Notes

¹ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(2) (December 30, 2007)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(3) (December 30, 2007)

- ³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(4) (December 30, 2007)
- ⁴ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(5)(a) (December 30, 2007)
- ⁵ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(5)(b) (December 30, 2007)
- ⁶ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(6) (December 30, 2007)
- ⁷ Word substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(7) (December 30, 2007)
- ⁸ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(8)(a) (December 30, 2007)
- ⁹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(8)(b) (December 30, 2007)
- ¹⁰ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(8)(c) (December 30, 2007)
- ¹¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(9) (December 30, 2007)
- ¹² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.62(10) (December 30, 2007)

Amendments Pending

Pt II s. 11(8A): added by Local Government (Wales) Measure 2011 c. 04, Pt 2 s. 32(2) (date to be appointed)

Pt II s. 11(10): words repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011)

Pt II s. 11(4): repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011)

Commencement

Pt II s. 11(1)-(4)(b), (7)-(8), (10): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4), Pt VI s. 108(6); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 11(5)-(6)(c), (9): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Extent

Pt II s. 11(1)-(10): England, Wales

Law In Force

12.— Additional forms of executive.

(1) In deciding whether to make regulations under section 11(5) prescribing a particular form of executive, or which provision to make under section 17 in relation to that form of executive, the Secretary of State must have regard to—

- (a) any proposals made to him under subsection (2),
- (b) the extent to which he considers that the operation by a local authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way,
- (c) the extent to which that form of executive differs from the forms of executive for the time being permitted by or under section 11,

- (d) the number and description of authorities for which he considers that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive to consider.
- (2) For the purposes of subsection (1), a local authority may propose to the Secretary of State a form of executive in relation to which the authority consider that the conditions mentioned in subsection (3) are satisfied.
- (3) Those conditions are—
- (a) that the operation by the authority of executive arrangements involving that form of executive would be an improvement on the arrangements which the authority have in place for the discharge of their functions at the time that the proposal is made to the Secretary of State,
 - (b) that the operation by the authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way, and
 - (c) that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive for all local authorities, or for any particular description of local authority, to consider.
- (4) A proposal under subsection (2)—
- (a) must describe the form of executive to which it relates,
 - (b) must describe the provision which the authority consider should be made under section 17 in relation to that form of executive, and
 - (c) must explain why the authority consider that the conditions mentioned in subsection (3) are satisfied in relation to that form of executive.

Commencement

Pt II s. 12(1)-(1)(d): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2; 2000 c. 22 Pt VI s. 108(4), Pt VI s. 108(6))

Pt II s. 12(2)-(4)(c): August 7, 2000 in relation to England; July 28, 2001 in relation to Wales

Extent

Pt II s. 12(1)-(4)(c): England, Wales

Executive functions

Law In Force

Amendment(s) Pending

13.— Functions which are the responsibility of an executive.

- (1) This section has effect for the purposes of determining the functions of a local authority which are the responsibility of an executive of the authority under executive arrangements.
- (2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of a local authority which is not specified in

regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.

(3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—

- (a) to be a function which is not to be the responsibility of an executive of the authority under executive arrangements,
- (b) to be a function which may be the responsibility of such an executive under such arrangements, or
- (c) to be a function which—
 - (i) to the extent provided by the regulations is to be the responsibility of such an executive under such arrangements, and
 - (ii) to the extent provided by the regulations is not to be the responsibility of such an executive under such arrangements.

(4) Executive arrangements must make provision for any function of a local authority falling within subsection (3)(b)—

- (a) to be a function which is to be the responsibility of an executive of the authority,
- (b) to be a function which is not to be the responsibility of such an executive, or
- (c) to be a function which—
 - (i) to the extent provided by the arrangements is to be the responsibility of such an executive, and
 - (ii) to the extent provided by the arrangements is not to be the responsibility of such an executive.

(5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a local authority—

- (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of a local authority, and
- (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.

(6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.

(7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the Local Government Act 1972, or any provision of that section, does not apply to that function.

(8) Any reference in the following provisions of this Part to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of this section, the responsibility of the executive under such arrangements.

(9) Any function which is the responsibility of an executive of a local authority under executive arrangements—

- (a) is to be regarded as exercisable by the executive on behalf of the authority, and
- (b) may be discharged only in accordance with any provisions made by or under this Part [or section 236 of the Local Government and Public Involvement in Health Act 2007

(exercise of functions by local councillors in England)]¹ which apply to the discharge of any such function by that form of executive.

(10) Accordingly any function which is the responsibility of an executive of a local authority under executive arrangements—

- (a) may not be discharged by the authority,
- (b) is not to be a function to which section 101(1) of the Local Government Act 1972 applies, and
- (c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 20.

(11) Subject to any provision made under subsection (12), any function which, under executive arrangements, is not the responsibility of an executive of a local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Part.

(12) The Secretary of State may by regulations make provision with respect to the discharge of any function which, under executive arrangements, is not the responsibility of an executive of a local authority (including provision disapplying section 101 of the Local Government Act 1972 or any provision of that section).

(13) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.

(14) In this section—

“action” in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—

- (a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,
- (b) the doing of anything incidental or conducive to the discharge of the function, or
- (c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b),

“function” means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

Notes

¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 16 s.236(9) (December 12, 2008 in relation to the power to make an order under 2007 c.28 s.236(4); April 1, 2009 otherwise)

Amendments Pending

Pt II s. 13(9)(b): words inserted by Local Government (Wales) Measure 2011 c. 04, Pt 5 s. 57(2)(a) (date to be appointed)

Commencement

Pt II s. 13(1)-(2), (4)-(4)(c)(ii), (7)-(11): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 13(3)-(3)(c)(ii): August 7, 2000 in relation to England but only in so far as confers powers to make secondary legislation, give directions and issue guidance as specified in SI 2000/2187; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Pt II s. 13(5)-(6), (12)-(14) definition of "function": August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 13(1)-(14) definition of "function": England, Wales

Provisions with respect to executive arrangements

Law In Force

14.— [Discharge of functions: general]¹ .

[(1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of—

- (a) a mayor and cabinet executive, or
- (b) a leader and cabinet executive (England),

are to be discharged in accordance with this section.

] ²

(2) The [senior executive member]³ –

- (a) may discharge any of those functions, or
- (b) may arrange for the discharge of any of those functions—
 - (i) by the executive,
 - (ii) by another member of the executive,
 - (iii) by a committee of the executive, or
 - (iv) by an officer of the authority.

(3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the [senior executive member]³ otherwise directs, the executive may arrange for the discharge of any of those functions—

- (a) by a committee of the executive, or
- (b) by an officer of the authority.

(4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the [senior executive member]⁴ otherwise directs, [the member who may discharge the function]⁵ may arrange for the discharge of any of those functions by an officer of the authority.

(5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the [senior executive member]⁶ otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.

(6) Any arrangements made by virtue of this section by [a senior executive member]⁷ , executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent [the senior executive member]⁸ , executive, member or committee by whom the arrangements are made from exercising those functions.

[(7) In this section “senior executive member” means—

- (a) in the case of a mayor and cabinet executive: the elected mayor;
- (b) in the case of a leader and cabinet executive (England): the executive leader.

] ⁹

Notes

- ¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(2) (December 30, 2007)
- ² Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(3) (December 30, 2007)
- ³ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(4) (December 30, 2007)
- ⁴ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(5)(a) (December 30, 2007)
- ⁵ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(5)(b) (December 30, 2007)
- ⁶ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(6) (December 30, 2007)
- ⁷ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(7)(a) (December 30, 2007)
- ⁸ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(7)(b) (December 30, 2007)
- ⁹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(8) (December 30, 2007)

Commencement

Pt II s. 14(1)-(6): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 14(1)-(7)(b): England, Wales

Law In Force

15.— [Discharge of functions: leader and cabinet executive (Wales)]¹ .

(1) Subject to any provision made under section 18, 19 or 20 , any functions which, under executive arrangements, are the responsibility of a [leader and cabinet executive (Wales)]² are to be discharged in accordance with this section.

(2) The executive arrangements may make provision with respect to the allocation of any functions which are the responsibility of the executive among the following persons—

- (a) the executive,
- (b) any members of the executive,
- (c) any committees of the executive, and

- (d) any officers of the authority.
- (3) If the executive arrangements make such provision as is mentioned in subsection (2), any person to whom a function is allocated in accordance with that provision may discharge the function.
- (4) If or to the extent that the functions which are the responsibility of the executive are not allocated in accordance with such provision as is mentioned in subsection (2), the executive leader—
- (a) may discharge any of those functions, or
 - (b) may arrange for the discharge of any of those functions—
 - (i) by the executive,
 - (ii) by another member of the executive,
 - (iii) by a committee of the executive, or
 - (iv) by an officer of the authority.
- (5) Where by virtue of this section any functions may be discharged by a local authority executive, the executive may arrange for the discharge of any of those functions—
- (a) by a committee of the executive, or
 - (b) by an officer of the authority.
- (6) Where by virtue of this section any functions may be discharged by a member of a local authority executive, that member may arrange for the discharge of any of those functions by an officer of the authority.
- (7) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (8) Where the executive leader makes or has made any arrangements under subsection (4)(b)(i), (ii) or (iii), he may direct that subsection (5), (6) or (7) (as the case may be) is not to apply to any of the functions which are the subject of those arrangements or is not to apply to any of those functions in such cases or circumstances as he may direct.
- (9) Any arrangements made by virtue of this section by an executive leader, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the executive leader, executive, member or committee by whom the arrangements are made from exercising those functions.
- (10) The reference in subsection (2)(b) to the members of the executive includes a reference to the executive leader, and subsection (6) in its application for the purposes of subsection (2)(b) is to be construed accordingly.

Notes

¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(9)(a) (December 30, 2007)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.63(9)(b) (December 30, 2007)

Commencement

Pt II s. 15(1)-(10): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 15(1)-(10): England, Wales

Law In Force

Amendment(s) Pending

16.— Discharge of functions: mayor and council manager executive.

(1) Subject to any provision made under section 18, 19 or 20, the functions which, under executive arrangements, are the responsibility of a mayor and council manager executive are to be discharged in accordance with this section.

(2) The council manager—

- (a) may discharge any of those functions, or
- (b) may arrange for the discharge of any of those functions—
 - (i) by the executive, or
 - (ii) by an officer of the authority.

(3) In deciding—

- (a) whether or how to discharge any functions, or
- (b) whether to arrange for any functions to be discharged by the executive or an officer of the authority,

the council manager must have regard to any advice given by the elected mayor.

(4) Where by virtue of this section any functions may be discharged by the executive of a local authority, the executive may arrange for the discharge of any of those functions by an officer of the authority.

(5) Any arrangements made by virtue of this section by a council manager or executive for the discharge of any functions by an executive or officer are not to prevent the council manager or executive by whom the arrangements are made from exercising those functions.

Amendments Pending

Pt II s. 16: repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011)

Commencement

Pt II s. 16(1)-(5): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 16(1)-(5): England, Wales

Law In Force

17.— Discharge of functions: s. 11(5) executive.

(1) The Secretary of State may by regulations make provision with respect to the ways in which any functions which, under executive arrangements, are the responsibility of an executive which takes a form prescribed in regulations under section 11(5) are to be discharged.

(2) The provision which may be made by regulations under this section includes provision which applies or reproduces (with or without modifications) any provisions of section 14, 15 or 16.

(3) Nothing in subsection (2) affects the generality of the power under subsection (1).

(4) Any provision made by regulations under this section is subject to any provision made under section 18, 19 or 20.

Commencement

Pt II s. 17(1)-(4): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 17(1)-(4): England, Wales

✔ Law In Force

! Amendment(s) Pending

18.— Discharge of functions by area committees.

(1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive by an area committee of that authority.

(2) Regulations under this section may impose limitations or restrictions on the arrangements which may be made by virtue of the regulations (including limitations or restrictions on the functions which may be the subject of such arrangements).

(3) In this section—

“area committee”, in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (4),

“specified” means specified in regulations under this section.

(4) A committee or sub-committee of a local authority satisfies the conditions in this subsection if—

(a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,

(b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part, and

(c) either or both of the conditions in subsection (5) are satisfied in relation to that part.

(5) Those conditions are—

(a) that the area of that part does not exceed two-fifths of the total area of the authority,

(b) that the population of that part, as estimated by the authority, does not exceed two-fifths of the total population of the area of the authority as so estimated.

Amendments Pending

Pt II s. 18: modified by Local Government (Wales) Measure 2011 c. 04, Pt 5 s. 55 (July 10, 2011)

Commencement

Pt II s. 18(1)-(5)(b): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 18(1)-(7)(b): England, Wales

Law In Force

19.— Discharge of functions of and by another local authority.

(1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority (within the meaning of this Part), or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—

- (a) by another local authority (within the meaning of section 101 of the Local Government Act 1972), or
- (b) by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.

(2) The Secretary of State may by regulations make provision for or in connection with enabling a local authority (within the meaning of section 101 of that Act) to arrange for the discharge of any of their functions by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.

(3) The reference in subsection (2) to the functions of a local authority, in a case where the authority are operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority's executive.

(4) Regulations under subsection (1) or (2) may include provision—

- (a) requiring, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, the approval of the authority to such arrangements,
- (b) which, in the case of arrangements for the discharge of any functions by a local authority, enables any of those functions to be delegated,
- (c) which, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, enables any of those functions to be delegated.

(5) The provision which may be made under subsection (4)(b) includes provision which applies or reproduces (with or without modifications) any provisions of section 101(2) to (4) of the Local Government Act 1972.

(6) The provision which may be made under subsection (4)(c) includes provision which applies or reproduces (with or without modifications) any provisions of section 14(3) to (6), 15(5) to (9) or 16(3) to (5).

(7) Nothing in subsection (4), (5) or (6) affects the generality of the power under subsection (1) or (2).

(8) In this section “specified” means specified in regulations under this section.

Commencement

Pt II s. 19(1)-(8): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 19(1)-(8): England, Wales

Law In Force

20.— Joint exercise of functions.

(1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority under executive arrangements.

(2) The provision which may be made under subsection (1) includes provision—

(a) as to the circumstances in which the executive, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,

(b) as to the circumstances in which—

(i) the authority, and

(ii) the executive or a committee or specified member of the executive,

are both to be parties to the arrangements,

(c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,

(d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,

(e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,

(f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.

(3) Nothing in subsection (2) affects the generality of the power under subsection (1).

(4) In this section “specified” means specified in regulations under this section.

Commencement

Pt II s. 20(1)-(4): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 20(1)-(4): England, Wales

✔ Law In Force

! Amendment(s) Pending

21.— Overview and scrutiny committees.

(1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Part as overview and scrutiny committees).

(2) Executive arrangements by a local authority must ensure that their overview and scrutiny committee has power (or their overview and scrutiny committees [, and any joint overview and scrutiny committees,]¹ have power between them)–

(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,

(b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,

(c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,

(d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,

(e) to make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of that area.

[(f) in the case of the overview and scrutiny committee or committees of an authority to which [section 244 of the National Health Service Act 2006 or section 184 of the National Health Service (Wales) Act 2006 applies, to review and scrutinise, in accordance with regulations under either of those sections, matters relating to the health service (within the meaning given by the Act concerned, and as extended by the section concerned)]³ in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations.]²

[(2A) In subsection (2), “joint overview and scrutiny committee”, in relation to a local authority (“the authority concerned”), means–

(a) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 245 of the National Health Service Act 2006 appointed by the authority concerned and one or more other local authorities,

(b) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section,

- (c) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 185 of the National Health Service (Wales) Act 2006 appointed by the authority concerned and one or more other local authorities,
- (d) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or
- (e) a joint overview and scrutiny committee [—]⁵
 - [(i) within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007 (joint overview and scrutiny committees) appointed by two or more local authorities including the authority concerned; or
 - (ii) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned.]⁵

] ⁴

- (3) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—
- (a) to recommend that the decision be reconsidered by the person who made it, or
 - (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.
- (4) [An]⁶ overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this section [, sections 21A to 21C]⁷ [or any functions which may be conferred on it by virtue of regulations under section 21E]⁸ .
- (5) [...]⁹
- (6) An overview and scrutiny committee of a local authority—
- (a) may appoint one or more sub-committees, and
 - (b) may arrange for the discharge of any of its functions by any such sub-committee.
- (7) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (6)(b).
- (8) [...]¹⁰
- (9) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.
- (10) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority, but (subject to any provision made by or under paragraphs 7 to 9 of Schedule 1) any such persons are not entitled to vote at any meeting of such a committee or sub-committee on any question which falls to be decided at that meeting [, unless permitted to do so under paragraph 12 of that Schedule]¹¹ .
- (11) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—
- (a) as a committee or sub-committee of a principal council for the purposes of Part VA of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and

(b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

(12) Subsections (2) and (5) of section 102 of the Local Government Act 1972 are to apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

(13) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—

(a) may require members of the executive, and officers of the authority, to attend before it to answer questions, [...] ¹²

[(aa) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and] ¹²

(b) may invite other persons to attend meetings of the committee.

(14) It is the duty of any member or officer mentioned in [paragraph (a) or (aa) of subsection (13) to comply with any requirement mentioned in that paragraph] ¹³ .

(15) A person is not obliged by subsection (14) to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales. [...] ⁹

[(16) In exercising, or deciding whether to exercise, any of its functions—

(a) an overview and scrutiny committee of a local authority in England, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State; and

(b) an overview and scrutiny committee of a local authority in Wales, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Welsh Ministers.

(17) Guidance under subsection (16) may make different provision for different cases or for different descriptions of committee or subcommittee.] ¹⁴

Notes

¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.127(1)(a) (April 1, 2009)

² Added by Health and Social Care Act 2001 c. 15 Pt 1 s.7(1) (March 1, 2007 as SI 2006/1407)

³ Words substituted by National Health Service (Consequential Provisions) Act 2006 c. 43 Sch.1 para.205 (March 1, 2007)

⁴ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.127(1)(b) (April 1, 2009)

⁵ Existing words renumbered as s.21(2A)(e)(i) and s.21(2A)(e)(ii) is inserted by Local Government (Wales) Measure 2011 c. 04 Pt 6 c.1 s.58(5) (May 11, 2011)

⁶ Words repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(8) para.1 (April 1, 2008 as SI 2008/917)

⁷ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.127(1)(c)(i) (April 1, 2009)

⁸ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.127(1)(c)(ii) (April 1, 2009)

⁹ Repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(8) para.1 (April 1, 2008 as SI 2008/917)

- ¹⁰ Repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.127(1)(d) (April 1, 2009)
- ¹¹ Words inserted by Local Government Act 2003 c. 26 Sch.7 para.80 (November 18, 2003)
- ¹² Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.120(1) (April 1, 2009)
- ¹³ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.120(2) (April 1, 2009)
- ¹⁴ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.125 (December 12, 2008)

Amendments Pending

Pt II s. 21(13)(aa): words inserted by Local Government (Wales) Measure 2011 c. 04, Pt 5 s. 57(2)(b) (date to be appointed)

Pt II s. 21(10A): added by Local Government (Wales) Measure 2011 c. 04, Pt 6 c. 1 s. 75(4) (date to be appointed)

Pt II s. 21: modified by Local Government (Wales) Measure 2011 c. 04, Pt 6 c. 1 s. 59 (date to be appointed)

Pt II s. 21(10): words inserted by Police and Justice Act 2006 c. 48, Sch. 14 para. 38(3) (date to be appointed)

Pt II s. 21(4): words inserted by Police and Justice Act 2006 c. 48, Sch. 14 para. 38(2) (date to be appointed)

Commencement

Pt II s. 21(1)-(15): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 21(1)-(18) definition of "excluded matter" (b): England, Wales

Law In Force

[21ZA Scrutiny officers

(1) Subject as follows, a local authority in England must designate one of their officers to discharge the functions in subsection (2).

(2) Those functions are—

- (a) to promote the role of the authority's overview and scrutiny committee or committees;
- (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;
- (c) to provide support and guidance to—
 - (i) members of the authority,
 - (ii) members of the executive of the authority, and
 - (iii) officers of the authority,

in relation to the functions of the authority's overview and scrutiny committee or committees.

(3) An officer designated by a local authority under this section is to be known as the authority's "scrutiny officer".

(4) A local authority may not designate any of the following under this section—

- (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
- (b) the authority's monitoring officer designated under section 5 of that Act;
- (c) the authority's chief finance officer, within the meaning of that section.

(5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.

(6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.

]¹

Notes

¹ Added by Local Democracy, Economic Development and Construction Act 2009 c. 20 Pt 2 c.1 s.31 (April 1, 2010)

Extent

Pt II s. 21ZA(1)-(6): England, Wales

✔ Law In Force

! Amendment(s) Pending

[21A Reference of matters to overview and scrutiny committee etc

- (1) Executive arrangements by a local authority must include provision which—
- (a) enables any member of an overview and scrutiny committee of the authority to refer to the committee any matter which is relevant to the functions of the committee,
 - (b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee, and
 - (c) in the case of a local authority in England, enables any member of the authority to refer to an overview and scrutiny committee of the authority of which he is not a member any local government matter which is relevant to the functions of the committee.
- (2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.
- (3) In considering whether to exercise the power which he has by virtue of subsection (1)(c) in any case, a member of an authority must have regard to any guidance for the time being issued by the Secretary of State.
- (4) Guidance under subsection (3) may make different provision for different cases.
- (5) Subsections (6) to (8) apply where a local government matter is referred to an overview and scrutiny committee by a member of a local authority in accordance with provision made pursuant to subsection (1)(c).
- (6) In considering whether or not to exercise any of its powers under section 21(2) in relation to the matter, the committee may have regard to—
- (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
 - (b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers under section 21(2) in relation to the matter.
- (7) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of—

- (a) its decision, and
- (b) the reasons for it.

(8) The committee must provide the member with a copy of any report or recommendations which it makes to the authority or the executive under section 21(2) in relation to the matter.

(9) Subsection (8) is subject to section 21D.

(10) In this section “local government matter”, in relation to a member of a local authority, means a matter which—

- (a) relates to the discharge of any function of the authority,
- (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and
- (c) is not an excluded matter.

(11) In subsection (10)(c), “excluded matter” means any matter which is—

- (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
- (b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.

]¹

Notes

- ¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.119 (December 12, 2008 for the purpose only of conferring power on the Secretary of State to make an order specifying what is an excluded matter for the purposes of 2000 c.22 s.21A; April 1, 2009 otherwise)

Amendments Pending

Pt II s. 21A: modified by Local Government (Wales) Measure 2011 c. 04, Pt 6 c. 1 s. 63 (date to be appointed)

Extent

Pt II s. 21A(1)-(13)(b): England, Wales

Law In Force

Amendment(s) Pending

[21B Duty of authority or executive to respond to overview and scrutiny committee

(1) This section applies where an overview and scrutiny committee of a local authority in England makes a report or recommendations to the authority or the executive, otherwise than—

- (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
- (b) by virtue of subsection (3)(a) of that section.

(2) The overview and scrutiny committee may publish the report or recommendations.

(3) The overview and scrutiny committee must by notice in writing require the authority or executive—

- (a) to consider the report or recommendations,
- (b) to respond to the overview and scrutiny committee indicating what (if any) action the authority propose, or the executive proposes, to take,

(c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response,

(d) if the overview and scrutiny committee provided a copy of the report or recommendations to a member of the authority under section 21A(8), to provide the member with a copy of the response,

and to do so within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.

(4) It is the duty of an authority or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.

(5) Subsections (2) and (4) are subject to section 21D and to any provision made under section 22(12A).

(6) In this section—

(a) references to an overview and scrutiny committee include references to a sub-committee of such a committee; and

(b) references to “the authority” or “the executive”, in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the authority by which the overview and scrutiny committee is established or to the executive of that authority.

]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.122(1) (April 1, 2009)

Amendments Pending

Pt II s. 21B(1): words repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(D) para. 1 (date to be appointed)

Extent

Pt II s. 21B(1)-(6)(b): England, Wales

Law In Force

[21C Reports and recommendations of overview and scrutiny committees: duties of certain partner authorities

(1) This section applies where—

(a) a relevant committee makes a report or recommendations to the authority or the executive, otherwise than—

(i) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(ii) by virtue of subsection (3)(a) of that section, and

(b) the report or any of the recommendations relates to a local improvement target which—

(i) relates to a relevant partner authority, and

(ii) is specified in a local area agreement of the authority.

(2) The relevant committee may by notice in writing to the relevant partner authority require the relevant partner authority to have regard to the report or recommendation in question in exercising their functions.

- (3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.
- (4) It is the duty of a relevant partner authority to which a notice is given under subsection (2) to comply with the requirement specified in the notice.
- (5) Subsection (2) does not apply if–
- (a) the relevant partner authority is a health service body, and
 - (b) by virtue of section 244 of the National Health Service Act 2006, the report was, or the recommendations were, made to the health service body (as well as to the authority or the executive).
- (6) In subsection (5), “health service body” means–
- (a) a National Health Service trust,
 - (b) an NHS foundation trust, or
 - (c) a Primary Care Trust.
- (7) Subsections (2) and (3) are subject to section 21D.
- (8) In this section–
- “the authority”, in relation to a relevant committee, means–
- (a) in the case of an overview and scrutiny committee, the local authority by which it is established, and
 - (b) in the case of a sub-committee of an overview and scrutiny committee, the local authority by which the overview and scrutiny committee is established,
- “the executive”, in relation to a relevant committee, means the executive of the authority,
- “local improvement target” and “local area agreement” have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007 (local area agreements),
- “relevant committee” means–
- (a) any overview and scrutiny committee of–
 - (i) a county council in England,
 - (ii) a district council in England, other than a council for a district in a county for which there is a county council, or
 - (iii) a London borough council, or
 - (b) a sub-committee of an overview and scrutiny committee within paragraph (a), and
- “relevant partner authority”, in relation to a relevant committee, means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than–
- (a) a police authority, or
 - (b) a chief officer of police;
- and references to a target relating to a relevant partner authority are to be construed in accordance with section 105(3) of the Local Government and Public Involvement in Health Act 2007.

]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.122(1) (April 1, 2009)

Extent

Pt II s. 21C(1)-(8) definition of "relevant partner authority" (b): England, Wales

✔ Law In Force

! Amendment(s) Pending

[21D Publication etc of reports, recommendations and responses: confidential and exempt information

(1) This section applies to—

- (a) the publication under section 21B of any document comprising—
 - (i) a report or recommendations of an overview and scrutiny committee, or
 - (ii) a response of a local authority to any such report or recommendations, and
- (b) the provision of a copy of such a document—
 - (i) to a member of a local authority under section 21A(8) or section 21B, or
 - (ii) to a relevant partner authority under section 21C,by an overview and scrutiny committee or a local authority.

(2) The overview and scrutiny committee or the local authority, in publishing the document or providing a copy of the document to a relevant partner authority—

- (a) must exclude any confidential information, and
- (b) may exclude any relevant exempt information.

(3) The overview and scrutiny committee or the local authority, in providing a copy of the document to a member of the local authority, may exclude any confidential information or relevant exempt information.

(4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the local authority, in publishing, or providing a copy of, the document—

- (a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and
- (b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.

(5) If by virtue of subsection (2), (3) or (4) an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—

- (a) excludes information, or
- (b) replaces part of the report or recommendations with a summary,

it is nevertheless to be taken for the purposes of section 21B(3)(c) or (d) to have published or provided a copy of the report or recommendations.

(6) In this section—

“confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils),

“exempt information” has the meaning given by section 100I of that Act, and, in relation to—

- (a) any report or recommendations of an overview and scrutiny committee which has functions under section 21(2)(f), or
- (b) any response to such a report or recommendations,

also includes information which is exempt information under section 246 of the National Health Service Act 2006,

“relevant exempt information” means–

(a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered, and

(b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered, and

“relevant partner authority”, in relation to an overview and scrutiny committee which is a relevant committee within the meaning of section 21C, has the same meaning as in that section.

(7) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.122(1) (April 1, 2009)

Amendments Pending

Pt II s. 21D(6) definition of "exempt information": words inserted by Local Government (Wales) Measure 2011 c. 04, Pt 6 c. 1 s. 65(2) (date to be appointed)

Extent

Pt II s. 21D(1)-(7): England, Wales

Law In Force

[21E Overview and scrutiny committees of certain district councils: functions with respect to partner authorities

(1) This section applies to any district council which is a partner authority in relation to a county council (“the related county council”).

(2) The Secretary of State may by regulations make provision under which a district council to which this section applies may confer on their overview and scrutiny committee, or any of their overview and scrutiny committees, power to make reports and recommendations to the related county council, or that council's executive, which relate to any local improvement target which–

(a) relates to a relevant partner authority, and

(b) is specified in a local area agreement of the county council.

(3) Regulations under subsection (2) may make provision applying or reproducing any provision of section 21B, 21C or 21D (with or without modifications).

(4) For the purposes of this section–

- (a) “relevant partner authority”, in relation to a district council, means—
- (i) the related county council, or
 - (ii) any other authority which are a partner authority in relation to that county council, other than—
 - (a) a police authority, or
 - (b) a chief officer of police,
- (b) “local area agreement”, “local improvement target” and “partner authority” have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, and
- (c) section 105(2) or (3) of that Act applies for the purpose of determining whether a local improvement target relates to a relevant partner authority.

]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.124 (April 1, 2009)

Extent

Pt II s. 21E(1)-(4)(c): England, Wales

✓ Law In Force

! Amendment(s) Pending

[21F Overview and scrutiny committees: flood risk management

- (1) This section applies to a local authority which is a lead local flood authority for an area in England.
- (2) The arrangements required under section 21(2) include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.
- (3) A risk management authority must comply with a request made by an overview and scrutiny committee, in the course of arrangements under subsection (2), for—
- (a) information;
 - (b) a response to a report.
- (4) The Secretary of State may make regulations about the duty under subsection (3) (which may, in particular, include provision about (i) procedure, (ii) notices, (iii) exemptions, (iv) requirement to attend to give information orally, (v) the nature of information and responses that may be required, and (vi) publication).
- (5) A risk management authority must have regard to reports and recommendations of an overview and scrutiny committee in the course of arrangements under subsection (2).
- (6) Regulations under section 123 of the Local Government and Public Involvement in Health Act 2007 may make provision about the application of this section in relation to joint overview and scrutiny committees.
- (7) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.

]¹

Notes

- ¹ Added by Flood and Water Management Act 2010 c. 29 Sch.2 para.54 (October 1, 2010 for the power to make regulations under 2000 c.22 s.21F; April 6, 2011 otherwise)

Amendments Pending

Pt II s. 21F: added by Local Government (Wales) Measure 2011 c. 04, Pt 6 c. 1 s. 60 (date to be appointed)

Extent

Pt II s. 21F(1)-(7): England, Wales

N Not Yet In Force

[21G Wales: designated persons

- (1) The Welsh Ministers may, by order, designate for the purposes of section 21—
- (a) one or more persons, and
 - (b) one or more categories of person.
- (2) But—
- (a) the designation of a person has effect only if that person meets the following conditions, and
 - (b) the designation of a category of persons has effect only if, and to the extent that, each person in that category meets the following conditions.
- (3) Condition A is that the person provides the public, or a section of the public, with services, goods or facilities of any description (whether on payment or not).
- (4) Condition B is that the person—
- (a) provides those services, goods or facilities in the exercise of functions of a public nature, or
 - (b) is wholly or partly funded by public money.
- (5) Condition C is that the person is not a local authority.
- ¹

Notes

- ¹ Added by Local Government (Wales) Measure 2011 c. 04 Pt 6 c.1 s.61 (date to be appointed)

Extent

Pt II s. 21G(1)-(5): England, Wales

✓ Law In Force

! Amendment(s) Pending

22.— Access to information etc.

- (1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.

- (2) Subject to regulations under subsection (9), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.
- (3) A written record must be kept of prescribed decisions made at meetings of local authorities executives, or committees of such executives, which are held in private.
- (4) A written record must be kept of prescribed decisions made by individual members of local authority executives.
- (5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.
- (6) Written records under subsections (3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Secretary of State.
- (7) Regulations under subsection (6) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.
- (8) The Secretary of State may by regulations make provision—
- (a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),
 - (b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,
 - (c) for or in connection with requiring written records falling within paragraph (b) to include reasons,
 - (d) for or in connection with requiring any such written records to be made available to members of the public,
 - (e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.
- (9) The Secretary of State may by regulations make provision—
- (a) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be open to the public,
 - (b) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be held in private,
 - (c) with respect to the information which is to be included in written records kept by virtue of this section,
 - (d) with respect to the reasons which are to be included in any such written records,
 - (e) with respect to the persons who are to produce, keep or make available any such written records,
 - (f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,
 - (g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,

- (h) for or in connection with requiring information to be made available by electronic means,
- (i) for or in connection with conferring rights on members of the public, members of local authorities or overview and scrutiny committees or sub-committees in relation to records or documents,
- (j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section.

(10) The Secretary of State may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority.

- (11) The provision which may be made under subsection (10) includes provision—
- (a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,
 - (b) as to the way or form in which prescribed information is to be made available.

- (12) The Secretary of State may by regulations make provision which, in relation to meetings of—
- (a) local authority executives or committees of such executives, or
 - (b) joint committees, or sub-committees of such committees, falling within subsection (8)(a),

applies or reproduces (with or without modifications) any provisions of Part VA of the Local Government Act 1972.

- [(12A) The Secretary of State may by regulations make provision, in relation to—
- (a) the publication by executives of local authorities in England under section 21B, or under any provision of regulations under section 21E which applies or reproduces (with or without modifications) any provision of section 21B, of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or
 - (b) the provision by such executives under that section of copies of such responses,
- which applies or reproduces (with or without modifications) any provisions of section 21D.

]¹

- (13) In this section—
- “joint committee” means a joint committee falling within section 101(5)(a) of the Local Government Act 1972,
 - “prescribed” means prescribed by regulations made by the Secretary of State.

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.122(2) (April 1, 2009)

Amendments Pending

Pt II s. 22(12A): modified by Local Government (Wales) Measure 2011 c. 04, Pt 6 c. 1 s. 65(3) (date to be appointed)

Commencement

Pt II s. 22(1)-(5): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Pt II s. 22(6)-(13) definition of "prescribed": August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(a); SI 2000/2948 art. 2)

Extent

Pt II s. 22(1)-(13) definition of "prescribed": England, Wales

Law In Force

[22A Overview and scrutiny committees of certain authorities in England: provision of information etc by certain partner authorities

- (1) The Secretary of State may by regulations make provision, in relation to a relevant committee—
 - (a) as to information which relevant partner authorities must provide to the relevant committee, and
 - (b) as to information which may not be disclosed by a relevant partner authority to the relevant committee.
- (2) In subsection (1), references to information do not include information in respect of which provision may be made in exercise of the power conferred by—
 - (a) section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters), or
 - (b) section 244(2)(d) or (e) of the National Health Service Act 2006 (functions of overview and scrutiny committees).
- (3) For the purposes of subsection (1), “relevant committee” and “relevant partner authority” have the meanings given by section 21C.
- (4) The Secretary of State may also by regulations make provision, in relation to a relevant district council committee—
 - (a) as to information which associated authorities must provide to the relevant district council committee, and
 - (b) as to information which may not be disclosed by an associated authority to the relevant district council committee.
- (5) In subsection (4), references to information do not include information in respect of which provision may be made in exercise of the power conferred by section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters).
- (6) For the purposes of subsection (4)—

“relevant district council committee” means—

 - (a) an overview and scrutiny committee of a district council which is not a responsible local authority (“the district council”), or
 - (b) a sub-committee of such a committee;

“associated authority”, in relation to a relevant district council committee, means—

- (a) the county council which is the responsible local authority in relation to the district council, or
- (b) any person (other than the district council) which is a partner authority in relation to that county council, other than—
 - (i) a police authority, or
 - (ii) a chief officer of police;

and for this purpose, “responsible local authority” and “partner authority” have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007.

(7) Regulations under this section may make different provision in relation to different persons or committees or descriptions of person or committee.

(8) The power conferred by subsection (7) does not affect the power conferred by section 105(2)(b).
]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.121(1) (April 1, 2009)

Extent

Pt II s. 22A(1)-(8): England, Wales

Law In Force

23. Further provision.

Schedule 1 (which makes further provision in relation to executive arrangements) has effect.

Commencement

Pt II s. 23: August 7, 2000 in relation to England as relates to provisions specified in SI 2000/2187; October 26, 2000 in relation to England as relates to provisions specified in SI 2000/2849; November 1, 2000 in relation to Wales as relates to provisions specified in SI 2000/2948; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(c); SI 2000/2948 art. 2)

Extent

Pt II s. 23: England, Wales

Law In Force

24. Absence of requirement for political balance.

Neither—

- (a) a local authority executive, nor
- (b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

Commencement

Pt II s. 24(a)-(b): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 24(a)-(b): England, Wales

Procedure with respect to operation of executive arrangements

Law In Force

25.— Proposals.

- (1) Subject to section 31, every local authority must—
 - (a) draw up proposals for the operation of executive arrangements, and
 - (b) send a copy of the proposals to the Secretary of State.
- (2) Before drawing up proposals under this section, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (3) In drawing up proposals under this section, a local authority must decide—
 - (a) which form the executive is to take, and
 - (b) the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive.
- (4) In drawing up proposals under this section, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (5) A local authority must comply with any directions given by the Secretary of State for the purposes of this section.
- (6) Proposals under this section must include—
 - (a) such details of the executive arrangements as the Secretary of State may direct,
 - (b) a timetable with respect to the implementation of the proposals, and
 - (c) details of any transitional arrangements which are necessary for the implementation of the proposals.
- (7) A copy of proposals under this section which is sent to the Secretary of State must be accompanied by a statement which describes—
 - (a) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and
 - (b) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.
- (8) The Secretary of State may by order specify a date by which every local authority, or every local authority falling within any description of authority specified in the order, must comply with this section.

Commencement

Pt II s. 25(1)-(4), (7)-(7)(b): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 25(5)-(6)(c), (8): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Extent

Pt II s. 25(1)-(8): England, Wales

✔ Law In Force

! Amendment(s) Pending

26.— Proposals not requiring referendum.

(1) Where a local authority's proposals under section 25 do not involve a form of executive for which a referendum is required, the authority must implement the proposals in accordance with the timetable included in the proposals.

(2) Any reference in this Part to a form of executive for which a referendum is required is a reference to—

- (a) a mayor and cabinet executive,
 - (b) a mayor and council manager executive, or
 - (c) a form of executive prescribed in regulations under section 11(5) which is expressed in those regulations to be a form of executive for which a referendum is required.
-

Amendments Pending

Pt II s. 26(2): modified by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 34(4) (July 10, 2011)

Commencement

Pt II s. 26(1)-(2)(c): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 26(1)-(2)(c): England, Wales

✔ Law In Force

27.— Referendum in case of proposals involving elected mayor.

(1) Where a local authority's proposals under section 25 involve a form of executive for which a referendum is required, the authority—

- (a) must hold a referendum on their proposals before taking any steps to implement them, and

- (b) must draw up and send to the Secretary of State an outline of the fall-back proposals (referred to in this section as outline fall-back proposals) that they intend to implement if the proposals under section 25 are rejected in a referendum.
- (2) Fall-back proposals are proposals—
- (a) for the operation of executive arrangements which do not involve a form of executive for which a referendum is required, or
 - (b) for the operation of alternative arrangements of a particular type permitted by regulations under section 32.
- (3) For the purpose of drawing up outline fall-back proposals, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (4) Outline fall-back proposals must include a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals under section 25 are rejected in a referendum.
- (5) A local authority must send a copy of their outline fall-back proposals to the Secretary of State at the same time that a copy of the proposals under section 25 is sent to him.
- (6) A local authority may not hold a referendum under this section before the end of the period of two months beginning with the date on which a copy of the proposals under section 25 is sent to the Secretary of State.
- (7) If the result of a referendum under subsection (1) is to approve a local authority's proposals under section 25, the authority must implement the proposals in accordance with the timetable included in the proposals.
- (8) If the result of a referendum under subsection (1) is to reject a local authority's proposals under section 25, the authority—
- (a) may not implement those proposals,
 - (b) must draw up detailed fall-back proposals which are based on the outline fall-back proposals, and
 - (c) must send a copy of the detailed fall-back proposals to the Secretary of State.
- (9) In drawing up outline fall-back proposals or detailed fall-back proposals under this section, a local authority must comply with any directions given by the Secretary of State.
- (10) Outline fall-back proposals and detailed fall-back proposals must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State may direct.
- (11) Subsections (2), (3)(b), (4) and (6)(c) of section 25 are to apply to detailed fall-back proposals involving executive arrangements as they apply to proposals under that section.
- (12) Subsections (2), (4) and (6)(c) of that section are to apply to detailed fall-back proposals involving alternative arrangements as they apply to proposals under that section.
- (13) A local authority must implement detailed fall-back proposals in accordance with the timetable mentioned in subsection (4).

Commencement

Pt II s. 27(1)-(8)(c), (11)-(13): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 27(9)-(10): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Extent

Pt II s. 27(1)-(13): England, Wales

✔ Law In Force

28.— Approval of outline fall-back proposals.

(1) A local authority may apply to the Secretary of State for the approval of outline fall-back proposals involving fall-back proposals which are not permitted by or under this Part but which would be so permitted if the necessary regulations were made under section 11(5) or 32(as the case may be).

(2) The form and content of an application under subsection (1) must comply with any directions given by the Secretary of State.

(3) Where the Secretary of State approves a local authority's proposals under subsection (1)–

- (a) the authority may use those proposals as their outline fall-back proposals for the purposes of section 27, and
- (b) the timetable referred to in section 27(13) shall be extended to the extent that there is any delay in making the necessary regulations under section 11(5) or 32 (as the case may be).

Commencement

Pt II s. 28(1)-(2): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2; 2000 c. 22 Pt VI s. 108(4))

Pt II s. 28(3)-(3)(b): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2000 in relation to Wales

Extent

Pt II s. 28(1)-(3)(b): England, Wales

✔ Law In Force

! Amendment(s) Pending

29.— Operation of, and publicity for, executive arrangements.

(1) A resolution of a local authority is required in order for the authority to operate executive arrangements.

- (2) As soon as practicable after passing such a resolution a local authority must—
- (a) secure that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at all reasonable hours, and
 - (b) publish in one or more newspapers circulating in their area a notice which—
 - (i) states that they have resolved to operate the arrangements,
 - (ii) states the date on which they are to begin operating the arrangements,
 - (iii) describes the main features of the arrangements,
 - (iv) states that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and
 - (v) specifies the address of their principal office.

(3) A local authority [in Wales]¹ which pass a resolution under this section may not at any subsequent time cease to operate executive arrangements unless, by virtue of any provision made under section 33(5), the authority operate alternative arrangements in place of the executive arrangements.

Notes

- ¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.23 (December 30, 2007)

Amendments Pending

Pt II s. 29: repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011: insertion has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Pt II s. 29(3): repealed by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 36(1)(a) (July 10, 2011: repeal has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 29(1)-(3): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt II s. 29(1)-(3): England, Wales

Law In Force

Amendment(s) Pending

30.— Operation of different executive arrangements.

(1) The Secretary of State may by regulations make provision for or in connection with the operation by a local authority [in Wales]¹ which are operating executive arrangements (“the existing arrangements”) of executive arrangements (“the different arrangements”) which differ from the existing arrangements in any respect.

- (2) The provision which may be made by virtue of subsection (1) includes provision—
- (a) which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29,

- (b) for or in connection with requiring the consent of an elected mayor under the existing arrangements to the operation of the different arrangements,
- (c) with respect to changes to the existing arrangements as a result of changes to the functions which are the responsibility of an executive.

(3) Nothing in subsection (2) affects the generality of the power under subsection (1).

Notes

- ¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.24 (December 30, 2007)

Amendments Pending

Pt II s. 30: repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(C) para. 1 (July 10, 2011)

Commencement

Pt II s. 30(1)-(3): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 30(1)-(3): England, Wales

Alternative arrangements.

Law In Force

Amendment(s) Pending

31.— Alternative arrangements in case of certain local authorities.

- (1) This section applies to—
- (a) any local authority which falls within subsection (2), and
 - (b) any local authority which falls within any description of local authority specified in regulations made by the Secretary of State under this section.
- (2) A local authority falls within this subsection if—
- (a) it is the council for a district comprised in an area for which there is a county council, and
 - (b) the resident population of the authority's area on 30th June 1999 was less than 85,000.
- (3) For the purposes of subsection (2)(b) the resident population of any area on 30th June 1999 is to be taken to be the Registrar General's estimate of that population on that date.
- (4) A local authority to which this section applies must either—
- (a) draw up proposals for the operation of alternative arrangements of a particular type permitted by regulations under section 32, or
 - (b) draw up proposals under section 25.
- (5) In deciding whether to draw up proposals under this section or proposals under section 25, a local authority to which this section applies must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(6) In drawing up proposals under this section, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(7) A local authority which draw up proposals under this section must comply with such requirements as may be specified in regulations made by the Secretary of State under this section.

(8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.

(9) Nothing in subsection (8) affects the generality of the power under subsection (7).

Amendments Pending

Pt II s. 31(A1): added by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 36(1)(b) (July 10, 2011: insertion has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 31(1)-(1)(a), (2)-(9): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 31(1)(b): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Extent

Pt II s. 31(A1)-(9): England, Wales

✔ Law In Force

! Amendment(s) Pending

32.— Alternative arrangements.

(1) The Secretary of State may by regulations specify arrangements by a local authority with respect to the discharge of their functions (referred to in this Part as alternative arrangements) which are arrangements of a type—

- (a) which do not involve the creation and operation of an executive of the authority,
- (b) which include arrangements for the appointment of committees or sub-committees of the authority to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority, and
- (c) which the Secretary of State considers are likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.

(2) The arrangements which may be specified by regulations under this section include—

- (a) arrangements for the discharge of functions of a local authority by individual members of the authority or by individual members of any committee or sub-committee of the authority,
- (b) arrangements for the appointment of committees or sub-committees of a local authority the membership of which is determined otherwise than in accordance with the political balance requirements.

[(3) Regulations under this section may make provision with respect to committees or sub-committees falling within subsection (1)(b), including—

(a) in the case of regulations made by the Secretary of State, provision which applies or reproduces (with or without modifications)—

- (i) any provision of sections 21 to 21D or paragraphs 7 and 9 to 11 of Schedule 1,
- (ii) any provision made under section 21E or 22A,
- (iii) any provision of section 246 of, or Schedule 17 to, the National Health Service Act 2006, or
- (iv) any provision made under section 244 of that Act, and

(b) in the case of regulations made by the Welsh Ministers, provision which applies or reproduces (with or without modifications)—

- (i) any provision of section 21 or 21A(1)(a) or (b) or (2) or paragraphs 8 to 11 of Schedule 1,
- (ii) any provision of Schedule 17 to the National Health Service Act 2006,
- (iii) any provision of section 186 of, or Schedule 11 to, the National Health Service (Wales) Act 2006, or
- (iv) any provision made under section 184 of that Act.

] ¹

(4) Regulations under this section may make provision for the purpose of determining the functions of a local authority which may, may not or must be the subject of alternative arrangements of any particular type.

(5) Nothing in subsection (2),(3) or (4) affects the generality of the power under subsection (1). [³] ²

Notes

¹ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 5 c.2 s.127(2) (April 1, 2009)

² Words inserted by Health and Social Care Act 2001 c. 15 Sch.5(1) para.13 (January 1, 2003 as SI 2003/53)

³ **In relation to England:**

32.— Alternative arrangements.

(1) The Secretary of State may by regulations specify arrangements by a local authority with respect to the discharge of their functions (referred to in this Part as alternative arrangements) which are arrangements of a type—

- (a) which do not involve the creation and operation of an executive of the authority,
- (b) which include arrangements for the appointment of committees or sub-committees of the authority to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority, and
- (c) which the Secretary of State considers are likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.

(2) The arrangements which may be specified by regulations under this section include—

- (a) arrangements for the discharge of functions of a local authority by individual members of the authority or by individual members of any committee or sub-committee of the authority,
- (b) arrangements for the appointment of committees or sub-committees of a local authority the membership of which is determined otherwise than in accordance with the political balance requirements.

(3) Regulations under this section may make provision with respect to committees or sub-committees falling within subsection (1)(b) (including provision which applies or reproduces (with or without modifications) any provisions of section 21 or paragraphs 7 to 11 of Schedule 1 , any provision made [, in the case of

regulations made by the Secretary of State, under section 244 of the National Health Service Act 2006 or any provision of section 246 of, or Schedule 17 to, that Act or, in the case of regulations made by the Welsh Ministers, under section 184 of the National Health Service (Wales) Act 2006 or any provision of section 186 of, or Schedule 11 to, that Act]⁴ .

(4) Regulations under this section may make provision for the purpose of determining the functions of a local authority which may, may not or must be the subject of alternative arrangements of any particular type.

(5) Nothing in subsection (2),(3) or (4) affects the generality of the power under subsection (1).

- ⁴ Words substituted subject to transitory modifications specified in 2006 c.43 Sch.3 para.10(2) by National Health Service (Consequential Provisions) Act 2006 c. 43 Sch.1 para.206 (March 1, 2007: substitution has effect subject to transitory modifications specified in 2006 c.43 Sch.3 para.10(2))

Amendments Pending

Pt II s. 32(A1): added by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 36(1)(c) (July 10, 2011: insertion has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 32(1)-(5): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 32(A1)-(5): England, Wales

✓ Law In Force

! Amendment(s) Pending

33.— Operation of alternative arrangements.

[(A1) In this section references to a local authority are references to a local authority in Wales.]¹

(1) A local authority may not operate alternative arrangements unless permitted or required to do so by virtue of any provision made by or under this Part.

(2) A resolution of a local authority is required in order for the authority to operate alternative arrangements.

(3) Subsection (2) of section 29 is to apply for the purposes of this section as it applies for the purposes of that section.

(4) A local authority which pass a resolution under this section to operate alternative arrangements may not at any subsequent time cease to operate those arrangements unless, by virtue of any provision made under subsection (9) or section 34, 35 or 36, the authority operate executive arrangements in place of those arrangements.

(5) The Secretary of State may by regulations make provision for or in connection with enabling a local authority to which section 31 applies which are operating executive arrangements to operate alternative arrangements in place of the executive arrangements.

(6) The provision which may be made by virtue of subsection (5) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27 or 28.

(7) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate alternative arrangements which differ from the existing alternative arrangements in any respect.

(8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.

(9) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate executive arrangements in place of the alternative arrangements.

(10) The provision which may be made by virtue of subsection (9) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29.

(11) Nothing in subsection (6), (8) or (10) affects the generality of the power under subsection (5), (7) or (9) (as the case may be).

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.25 (December 30, 2007)

Amendments Pending

Pt II s. 33: repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011: insertion has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 33(1)-(4): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 33(5)-(11): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Extent

Pt II s. 33(A1)-(11): England, Wales

[Changing governance arrangements: general provisions]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

 Not Yet In Force

[33ZA Wales: changing governance arrangements

For provision about changing the governance arrangements of local authorities in Wales, see Part 4 of the Local Government (Wales) Measure 2011.]¹

Notes

¹ Added by Local Government (Wales) Measure 2011 c. 04 Pt 4 c.3 s.54(3) (July 10, 2011)

Extent

Pt II s. 33ZA: England, Wales

Law In Force

[33A Executive arrangements: different form of executive

A local authority in England which is operating executive arrangements may–

- (a) vary the arrangements so that they provide for a different form of executive, and
- (b) if it makes such a variation, vary the arrangements in such other respects (if any) as it considers appropriate.

]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33A(a)-(b): England, Wales

Law In Force

[33B Executive arrangements: other variation of arrangements

A local authority in England which is operating executive arrangements may vary the arrangements so that they–

- (a) differ from the existing arrangements in any respect, but
- (b) still provide for the same form of executive.

]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33B(a)-(b): England, Wales

Law In Force

[33C Alternative arrangements: move to executive arrangements

A local authority in England which is operating alternative arrangements may–

- (a) cease to operate alternative arrangements, and
- (b) start to operate executive arrangements.

]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33C(a)-(b): England, Wales

Law In Force

[33D Alternative arrangements: variation of arrangements

A local authority in England which is operating alternative arrangements may vary the arrangements so that they differ from the existing arrangements in any respect.]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33D: England, Wales

Law In Force

[33E Proposals by local authority

(1) This section applies to a local authority which wishes to make a change in governance arrangements.

(2) The local authority must draw up proposals for the change.

(3) The proposals must include—

- (a) a timetable with respect to the implementation of the proposals, and
- (b) details of any transitional arrangements which are necessary for the implementation of the proposals.

(4) The following subsections apply if the proposed change is of the kind set out in—

- (a) section 33A (different form of executive), or
- (b) section 33C (move to executive arrangements).

(5) The proposals may provide for the change in governance arrangements to be subject to approval in a referendum.

(6) Before drawing up its proposals, the local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

(7) In drawing up the proposals, the local authority must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the local authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

(8) After drawing up the proposals, the local authority must—

- (a) secure that copies of a document setting out the proposals are available at their principal office for inspection by members of the public at all reasonable times, and
- (b) publish in one or more newspapers circulating in its area a notice which—
 - (i) states that the authority has drawn up the proposals,
 - (ii) describes the main features of the proposals,

- (iii) states that copies of a document setting out the proposals are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and
- (iv) specifies the address of their principal office.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33E(1)-(8)(b)(iv): England, Wales

Law In Force

[33F Resolution of local authority

- (1) A resolution of a local authority is required in order for the authority to make a change in governance arrangements.
- (2) Section 29(2) applies to a resolution under this section as it applied to a resolution to operate executive arrangements.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33F(1)-(2): England, Wales

Law In Force

[33G Implementation: new executive or move to executive arrangements

- (1) This section applies if a local authority passes a resolution which makes a change in governance arrangements of the kind set out in–
 - (a) section 33A (new form of executive), or
 - (b) section 33C (move to executive arrangements).
- (2) On the third day after the relevant elections, the local authority must–
 - (a) cease operating the old form of executive, or the alternative arrangements, and
 - (b) start operating the form of executive which the change in governance arrangements provides for.
- (3) Subject to subsection (2), the local authority must implement the change in governance arrangements in accordance with the timetable in the proposals.
- (4) In this section “relevant elections” means, if the change in governance arrangements provides for the local authority to operate–
 - (a) a leader and cabinet executive (England): the appropriate elections of councillors;
 - (b) a mayor and cabinet executive: the first election of the mayor.

(5) For the purposes of subsection (4)(a), the “appropriate elections of councillors” are the elections determined in accordance with whichever of the following paragraphs is applicable–

(a) if the local authority is currently operating a mayor and cabinet executive, the “appropriate elections of councillors” are the ordinary elections of councillors of the local authority held on the day on which the next ordinary election of a mayor was expected to be held when the resolution to make the change in governance arrangements was passed;

(b) if the local authority–

(i) is not currently operating a mayor and cabinet executive, and

(ii) is required to pass the resolution to make the change in governance arrangements during a permitted resolution period,

the “appropriate elections of councillors” are the first ordinary elections of councillors of the local authority to be held after the end of the permitted resolution period in which the resolution is passed;

(c) if the local authority–

(i) is not currently operating a mayor and cabinet executive, and

(ii) is not required to pass the resolution to make the change in governance arrangements during a permitted resolution period,

the “appropriate elections of councillors” are the first ordinary elections of councillors of the local authority to be held after the resolution is passed.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33G(1)-(5)(c)(ii): England, Wales

Law In Force

[33H Implementation: other change in governance arrangements

(1) This section applies if a local authority passes a resolution which makes a change in governance arrangements of the kind set out in–

(a) section 33B (variation of executive arrangements), or

(b) section 33D (variation of alternative arrangements).

(2) The local authority must implement the change in governance arrangements in accordance with the timetable in the proposals.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33H(1)-(2): England, Wales

✔ Law In Force

[33I General

(1) Except as provided for in sections 33A to 33D or in regulations under section 34, 35 or 36, a local authority which is operating executive arrangements or alternative arrangements may not vary, or cease to operate, those arrangements.

(2) In making a change in governance arrangements, the local authority must comply with any directions given by the Secretary of State in connection with the making of such a change.

(3) Sections 33J to 33N contain further requirements which, in certain cases, apply to proposals or resolutions.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33I(1)-(3): England, Wales

[Further requirements for certain changes] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

✔ Law In Force

[33J New form of executive or move to executive: general requirements

(1) This section applies to a change in governance arrangements of the kind set out in–

- (a) section 33A (new form of executive), or
- (b) section 33C (move to executive arrangements).

(2) The proposals must state the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive which will be operated if the proposals are implemented.

(3) The proposals (particularly any provision about timetables and transitional matters included in accordance with section 33E(3)) must be such as to ensure that the proposed change can take effect (so far as required to) in accordance with section 33G(2).

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33J(1)-(3): England, Wales

✔ Law In Force

[33K Changes subject to approval in a referendum: additional requirements

- (1) This section applies to a change in governance arrangements if–
 - (a) the change is of the kind set out in section 33A (new form of executive) or section 33C (move to executive arrangements), and
 - (b) the change is subject to approval in a referendum.
- (2) The local authority must hold a referendum on its proposals before taking any steps to implement them.
- (3) The local authority may not pass a resolution which makes the proposed change unless the result of the referendum is to approve the proposals.
- (4) Any such resolution must be passed within the period of 28 days beginning with the day when the referendum is held.
- (5) Any such resolution must be passed at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object.
- (6) If the result of the referendum is not to approve the proposals, the local authority must publish in one or more newspapers circulating in its area a notice which–
 - (a) summarises the proposals,
 - (b) states that the referendum did not approve the proposals,
 - (c) summarises the authority's existing executive arrangements, and
 - (d) states that the authority will be continuing to operate those arrangements.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33K(1)–(6)(d): England, Wales

✔ Law In Force

[33L Change not subject to approval in a referendum: additional requirements

- (1) This section applies to a change of governance arrangements if–
 - (a) the change is of the kind set out in section 33A (new form of executive) or section 33C (move to executive arrangements), and
 - (b) the change is not subject to approval in a referendum.
- (2) Any resolution to make the change in governance arrangements must be passed during a permitted resolution period.
- (3) Subsection (4) applies if–
 - (a) the local authority is operating a mayor and cabinet executive, and
 - (b) the proposed new form of executive is a leader and cabinet executive (England).
- (4) In such a case–
 - (a) the consultation required by section 33E(6) must last for at least 12 weeks; and

- (b) the local authority's proposals must include statements of the following things—
- (i) the arguments in favour of making the proposed change;
 - (ii) any arguments against making the proposed change;
 - (iii) the local authority's reasons for wishing to make the proposed change.
- (5) Subsection (6) applies if—
- (a) the local authority is operating a mayor and cabinet executive, and
 - (b) the proposed new form of executive is a form prescribed in regulations under section 11(5).
- (6) In such a case, the resolution to make the change in governance arrangements must be passed—
- (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object;
 - (b) by a majority of at least two thirds of members voting on it.
- (7) In subsection (6) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33L(1)-(7): England, Wales

Law In Force

[33M Cases in which change subject to approval in referendum

- (1) For the purposes of sections 33K and 33L a change in governance arrangements is subject to approval in a referendum in either of the following cases.
- (2) The first case is where the proposals for implementing the local authority's current form of executive were themselves approved in a referendum.
- (3) The second case is where the local authority's proposals under section 33E provide for the change in governance arrangements to be subject to approval in a referendum.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33M(1)-(3): England, Wales

✔ Law In Force

[33N Variation of mayoral executive

(1) This section applies to a change in governance arrangements of the kind set out in section 33B (variation of executive arrangements) if the local authority is operating a mayor and cabinet executive.

(2) The local authority may not make any proposals for the change in governance arrangements unless the elected mayor has given written consent to the proposed change.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33N(1)-(2): England, Wales

[Miscellaneous] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

✔ Law In Force

[33O Interpretation

(1) This section applies for the purposes of sections 33A to 33N.

(2) References to a change in governance arrangements are references to any change of a kind set out in sections 33A to 33D.

(3) References to a different form of executive are references to any of the following kinds of executive that a local authority is not operating—

- (a) a leader and cabinet executive (England);
- (b) a mayor and cabinet executive;
- (c) a form of executive prescribed under section 11(5).

(4) In sections 33A to 33N—

“permitted resolution period”, in relation to a local authority, means a period specified in the second column of the following table in relation to that type of authority;

“proposals” means proposals under section 33E;

“proposed change” means the change in governance arrangements which is proposed in proposals.

(5) This is the table referred to in the definition of “permitted resolution period”—

<i>Type of local authority</i>	<i>Permitted resolution periods</i>
Metropolitan district	(1) The period ending with 31 December 2009. (2) The period in 2013, or in any fourth year afterwards, which—

<i>Type of local authority</i>	<i>Permitted resolution periods</i>
	(a) starts with the day after that council's annual meeting, and (b) ends with 31 December.
County	(1) The period ending with 31 December 2008. (2) The period in 2012, or in any fourth year afterwards, which— (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.
London borough	(1) The period ending with 31 December 2009. (2) The period in 2013, or in any fourth year afterwards, which— (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.
Non-metropolitan district	(1) The period ending with 31 December 2010. (2) The period in 2014, or in any fourth year afterwards, which— (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.

(6) The Secretary of State may by order provide that a permitted resolution period is to end later than the last day of that period specified in the table.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.64 (December 30, 2007)

Extent

Pt II s. 33O(1)-(6): England, Wales

Referendums

Law In Force

Amendment(s) Pending

34.— Referendum following petition.

(1) The Secretary of State may by regulations make provision for or in connection with requiring a local authority which receive a petition which complies with the provisions of the regulations to hold a referendum, in such circumstances as may be prescribed in the regulations, on whether the authority should [operate a relevant form of executive] ¹ .

[(1A) In this section “relevant form of executive” means—

- (a) in relation to England, an executive which takes such form permitted by or under section 11 as may be specified in the regulations;
- (b) in relation to Wales, executive arrangements involving a form of executive for which a referendum is required.

] ²

(2) The provision which may be made by regulations under subsection (1) includes provision—

- (a) as to the form and content of petitions (including provision for petitions in electronic form),
- (b) as to the minimum number of local government electors for a local authority's area who must support any petition presented to the authority during any period specified in the regulations,
- (c) for or in connection with requiring an officer of a local authority to publish the number of local government electors for the authority's area who must support any petition presented to the authority,
- (d) as to the way in which local government electors for a local authority's area are to support a petition (including provision enabling local government electors to support petitions by telephone or by electronic means),
- (e) as to the action which may, may not or must be taken by a local authority in connection with any petition,
- (f) as to the manner in which a petition is to be presented to a local authority,
- (g) as to the verification of any petition,
- (h) as to the date on which, or the time by which, a referendum must be held,
- (i) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
- (j) as to the action which may, may not or must be taken by a local authority after a referendum, and
- (k) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 [or of any of sections 33A to 33O]³.

(4) The number of local government electors mentioned in subsection (2)(b) is to be calculated at such times as may be provided by regulations under this section and (unless such regulations otherwise provide) is to be 5 per cent. of the number of local government electors at each of those times.

(5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

Notes

- ¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.65(2) (December 30, 2007)
- ² Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.65(3) (December 30, 2007)
- ³ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.65(4) (December 30, 2007)

Amendments Pending

Pt II s. 34(3): words substituted by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 36(1)(e) (July 10, 2011: substitution has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 34(1)-(5): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 34(1)-(5): England, Wales

✔ Law In Force

! Amendment(s) Pending

35.— Referendum following direction.

(1) The Secretary of State may by regulations make provision for or in connection with enabling him, in such circumstances as may be prescribed in the regulations, to direct a local authority to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the direction.

(2) The provision which may be made by regulations under this section includes provision—

- (a) as to the date on which, or the time by which, a referendum must be held,
- (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
- (c) as to the action which may, may not or must be taken by a local authority after a referendum, and
- (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.

(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 [or of any of sections 33A to 33O]¹.

(4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

Notes

¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.65(5) (December 30, 2007)

Amendments Pending

Pt II s. 35(3): words substituted by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 36(1)(f) (July 10, 2011: substitution has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 35(1)-(4): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 35(1)-(4): England, Wales

✔ Law In Force

! Amendment(s) Pending

36.— Referendum following order.

(1) The Secretary of State may by order make provision requiring every local authority, or every local authority falling within any description of authority specified in the order, to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the order.

(2) The provision which may be made by an order under this section includes provision—

- (a) as to the date on which, or the time by which, a referendum must be held,
- (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
- (c) as to the action which may, may not or must be taken by a local authority after a referendum,
- (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.

(3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33 [or of any of sections 33A to 33O]¹.

(4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

Notes

¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.65(6) (December 30, 2007)

Amendments Pending

Pt II s. 36(3): words substituted by Local Government (Wales) Measure 2011 c. 04, Pt 3 s. 36(1)(g) (July 10, 2011: substitution has effect subject to savings specified in 2011 nawm 4 s.36(5)-(8))

Commencement

Pt II s. 36(1)-(4): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 36(1)-(4): England, Wales

Local authority constitution

✔ Law In Force

37.— Local authority constitution.

(1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains—

- (a) such information as the Secretary of State may direct,
- (b) a copy of the authority's standing orders for the time being,
- (c) a copy of the authority's code of conduct for the time being under section 51, and
- (d) such other information (if any) as the authority consider appropriate.

(2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.

(3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

[(4) In relation to an authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), the reference in subsection (1)(c) to the authority's code of conduct for the time being under section 51 is to the mandatory provisions which for the time being apply to the members and co-opted members of the authority.]¹

Notes

- ¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.184(1) (January 31, 2008)

Commencement

Pt II s. 37(1), (1)(b)-(3): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(b))

Pt II s. 37(1)(a): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(b); SI 2000/2948 art. 2)

Extent

Pt II s. 37(1)-(4): England, Wales

Guidance

Law In Force

38.— Guidance.

(1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.

(2) Guidance under this section may make different provision for different cases or descriptions of local authority.

Commencement

Pt II s. 38(1)-(2): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 38(1)-(2): England, Wales

Elected mayors etc.

☑ Law In Force

39.— Elected mayors etc.

(1) In this Part “elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority's area in accordance with the provisions made by or under this Part.

(2) An elected mayor of a local authority in England is to be entitled to the style of “mayor”.

(3) An elected mayor of a local authority in Wales is to be entitled to the style of “mayor” or “maer”.

(4) In this Part “elected executive member” means an individual elected as a member of a local authority executive by the local government electors for the authority's area in accordance with the provisions made by or under this Part, but does not include an elected mayor.

[(5A) A reference in any enactment (whenever passed or made) to—

- (a) a member of a local authority, or
- (b) a councillor of a local authority,

does not include a reference to an elected mayor of the authority.

(5B) But subsection (5A) is subject to—

- (a) regulations made by the Secretary of State under this paragraph which provide that an elected mayor is to be treated as member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and
- (b) any other contrary intention that appears in any enactment (whenever passed or made).

(5C) Sections 2(2A) and 21(1A) of, and paragraph 5C(1) of Schedule 2 to, the Local Government Act 1972 are not to be taken to indicate any contrary intention for the purposes of subsection (5B)(b).]¹

[(6) Elections for the return of an elected mayor of a local authority in England are to take place on the ordinary day of election in each of the relevant election years.

(7) The term of office of an elected mayor of a local authority is to be four years.

(8) This section is subject to regulations under section 41.]²

Notes

¹ S.39(5A)-(5C) substituted for s.39(5) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.66(2) (December 30, 2007)

² S.39(6)-(8) substituted for s.39(6) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.66(3) (December 30, 2007)

Commencement

Pt II s. 39(1), (4): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(d); SI 2000/2948 art. 2; 2000 c. 22 Pt VI s. 108(4))

Pt II s. 39(2): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(d))

Pt II s. 39(3): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Pt II s. 39(5): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance as specified in SI 2000/2187; October 26, 2000 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2849 art. 2(d); SI 2000/2948 art. 2)

Pt II s. 39(6): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; October 26, 2000 in relation to England otherwise; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(d))

Extent

Pt II s. 39(1)-(8): England, Wales

Law In Force

40.— Election as elected mayor and councillor.

(1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy shall arise in the office of councillor.

(2) If the person who is returned at an election (“the mayoral election”) as the elected mayor of a local authority—

(a) is a councillor of the authority, and

(b) was returned as such a councillor at an election held at an earlier time than the mayoral election,

a vacancy shall arise in the office of councillor.

(3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.

(4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if he is a candidate in both such elections and he is returned both as the elected mayor and as a councillor.

Commencement

Pt II s. 40(1)-(4): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt II s. 40(1)-(4): England, Wales

✔ Law In Force

41. Time of elections etc.

The Secretary of State may by regulations make provision—

- (a) as to the dates on which and years in which elections for the return of elected mayors or elected executive members may or must take place,
- (b) as to the intervals between elections for the return of elected mayors or elected executive members,
- (c) as to the term of office of elected mayors or elected executive members, and
- (d) as to the filling of vacancies in the office of elected mayor or elected executive member.

Commencement

Pt II s. 41(a)-(d): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 41(a)-(d): England, Wales

✔ Law In Force

42.— Voting at elections of elected mayors.

(1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—

- (a) one vote (referred to in this Part as a first preference vote) which may be given for the voter's first preference from among the candidates to be the elected mayor, and
- (b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter's second preference from among those candidates.

(2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.

(3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

Commencement

Pt II s. 42(1)-(3): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt II s. 42(1)-(3): England, Wales

✔ Law In Force

43.— Entitlement to vote.

(1) The persons entitled to vote as electors at an election for the return of an elected mayor or elected executive member are those who on the day of the poll—

- (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and
- (b) are registered in the register of local government electors at an address within the authority's area.

(2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

Commencement

Pt II s. 43(1)-(2): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt II s. 43(1)-(2): England, Wales

Law In Force

44.— Power to make provision about elections.

- (1) The Secretary of State may by regulations make provision as to—
- (a) the conduct of elections for the return of elected mayors or elected executive members, and
 - (b) the questioning of elections for the return of elected mayors or elected executive members and the consequences of irregularities.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
- (a) about the registration of electors,
 - (b) for disregarding alterations in a register of electors,
 - (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses),
 - (d) for the combination of polls at elections for the return of elected mayors and other elections (including elections for the return of elected executive members), and
 - (e) for the combination of polls at elections for the return of elected executive members and other elections (including elections for the return of elected mayors).
- (3) Regulations under this section may—
- (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,
 - (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors or elected executive members, and
 - (c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

[(3A) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission.

(3B) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) shall be exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.]¹

(4) No return of an elected mayor or elected executive member at an election is to be questioned except by an election petition under the provisions of Part III of the Representation of the People Act 1983 as applied by or incorporated in regulations under this section.

Notes

¹ Added by Political Parties, Elections and Referendums Act 2000 c. 41 Sch.21 para.18(2) (July 1, 2001 subject to transitional provisions specified in SI 2001/222 Sch.2 Part II)

Commencement

Pt II s. 44(1)-(4): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance as specified in SI 2000/2187; November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 44(1)-(4): England, Wales

[Leader and cabinet executives (England)]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Law In Force

[44A Election of leader: whole-council elections

- (1) This section applies to a local authority if it—
 - (a) is subject to whole-council elections, and
 - (b) is, on the day of a post-election annual meeting, operating a leader and cabinet executive (England).
- (2) The executive leader is to be elected at the post-election annual meeting.
- (3) But if the council fails to elect the executive leader at the post-election annual meeting, an executive leader is to be elected at a subsequent meeting of the council.
- (4) For the purposes of this section and section 44D—
 - (a) a local authority is subject to whole-council elections if, under the scheme for the ordinary elections of its councillors, all of the councillors are elected in each year in which the elections are held;
 - (b) “post-election annual meeting” means the first annual meeting of a local authority to be held after ordinary elections take place.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44A(1)-(4)(b): England, Wales

Law In Force

[44B Election of leader: partial-council elections

- (1) This section applies to a local authority if it—
- (a) is subject to partial-council elections, and
 - (b) is, on the day of a relevant annual meeting, operating a leader and cabinet executive (England).
- (2) The executive leader is to be elected at the relevant annual meeting.
- (3) But if the council fails to elect the executive leader at the relevant annual meeting, the executive leader is to be elected at a subsequent meeting of the council.
- (4) For the purposes of this section and section 44E—
- (a) a local authority is subject to partial-council elections if, under the scheme for the ordinary elections of its councillors, one-half or one-third (or, in either case, as nearly as may be) of the councillors are elected in each year in which the elections are held;
 - (b) “relevant annual meeting” means—
 - (i) the first annual meeting to be held after the local authority starts to operate the leader and cabinet executive (England), or
 - (ii) any subsequent annual meeting held on a day when an executive leader's term of office is to end by virtue of section 44E(3).

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44B(1)-(4)(b)(ii): England, Wales

Law In Force

[44C Removal of leader

- (1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) may include provision for the council to remove the executive leader by resolution.
- (2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—
- (a) at the meeting at which the leader is removed from office, or
 - (b) at a subsequent meeting.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44C(1)-(2)(b): England, Wales

Law In Force

[44D Term of office of leader: whole-council elections

- (1) This section applies to the executive leader of a local authority which—
 - (a) is operating a leader and cabinet executive (England), and
 - (b) is subject to whole-council elections.
 - (2) The executive leader's term of office starts on the day of his election as leader.
 - (3) The executive leader's term of office ends on the day of the postelection annual meeting which follows his election as leader.
 - (4) But if the executive leader is removed from office in accordance with section 44C, his term of office ends on the day of his removal.
-] ¹
-

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44D(1)-(4): England, Wales

Law In Force

[44E Term of office of leader: partial-council elections

- (1) This section applies to the executive leader of a local authority which—
 - (a) is operating a leader and cabinet executive (England), and
 - (b) is subject to partial-council elections.
- (2) The executive leader's term of office starts on the day of his election.
- (3) The executive leader's term of office ends on the day when the council holds its first annual meeting after the leader's normal day of retirement as a councillor.
- (4) But that is subject to subsections (5) and (6).
- (5) If the executive leader is removed from office in accordance with section 44C, his term of office ends on the day of his removal.
- (6) If the local authority becomes subject to whole-council elections, the executive leader's term of office ends on the day of the annual meeting which follows the first whole-council elections.

(7) For the purposes of this section an executive leader's normal day of retirement as a councillor is the day when the leader would next be required to retire as a councillor of the council if section 44F were disregarded.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44E(1)-(7): England, Wales

Law In Force

[44F Leader to continue to hold office as councillor

(1) The executive leader of a leader and cabinet executive (England) remains a member of the council during his term of office as leader.

(2) Accordingly, any enactment which provides for his earlier retirement as a councillor does not apply.

(3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44F(1)-(3): England, Wales

Law In Force

[44G No other means of electing or removing leader

(1) This section applies to a local authority which operate a leader and cabinet executive (England).

(2) An executive leader may not be elected except in accordance with section 44A, 44B or 44C or regulations under section 44H.

(3) An executive leader may not be removed from office except in accordance with section 44C or regulations under section 44H.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44G(1)-(3): England, Wales

✔ Law In Force

[44H Regulations

- (1) The Secretary of State may by regulations make provision—
- (a) as to the dates on which and years in which executive leaders of leader and cabinet executives (England) are to be elected by local authorities,
 - (b) as to the intervals between elections of executive leaders of leader and cabinet executives (England),
 - (c) as to the term of office of an executive leader of a leader and cabinet executive (England), and
 - (d) as to the filling of vacancies in the office of executive leader of a leader and cabinet executive (England).
- (2) Sections 44A to 44E are subject to regulations under this section.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.67 (December 30, 2007)

Extent

Pt II s. 44H(1)-(2): England, Wales

Provisions with respect to referendums

✔ Law In Force

! Amendment(s) Pending

45.— Provisions with respect to referendums.

- [(1) A local authority—
- (a) in England may not hold more than one referendum in any period of ten years;
 - (b) in Wales may not hold more than one referendum in any period of five years.

] ¹

(2) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to approve the proposals to which the referendum relates, the local authority concerned must implement those proposals in accordance with any provision made by the regulations or order.

(3) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to reject the proposals to which the referendum relates, the local authority concerned may not implement those proposals but must instead comply with any provision made by the regulations or order.

- (4) The persons entitled to vote in a referendum held by a local authority are those who on the day of the referendum—
- (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the authority's area, and
 - (b) are registered in the register of local government electors at an address within the authority's area.

- (5) The Secretary of State may by regulations make provision as to the conduct of referendums.
- (6) The Secretary of State may by regulations make provision for the combination of polls at referendums with polls at any elections.
- (7) Regulations under subsection (5) or (6) may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.
- (8) The provision which may be made under subsection (5) includes, in particular, provision—
- (a) as to the question to be asked in a referendum,
 - (b) as to the publicity to be given in connection with a referendum (including the publicity to be given with respect to the consequences of the referendum),
 - (c) about the limitation of expenditure in connection with a referendum (and the creation of criminal offences in connection with the limitation of such expenditure),
 - (d) as to the conduct of the authority, members of the authority and officers of the authority in relation to a referendum,
 - (e) as to when, where and how voting in a referendum is to take place,
 - (f) as to how the votes cast in a referendum are to be counted, and
 - (g) for disregarding alterations in a register of electors.

[(8A) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission, but this subsection does not apply to—

- (a) provisions which specify the wording of the question to be asked in a referendum, or
- (b) provisions for matters mentioned in subsection (8)(c).

(8B) No regulations which specify the wording of the question to be asked in a referendum may be made under subsection (5) unless—

- (a) before laying a draft of the regulations before Parliament in accordance with section 105(6), the Secretary of State consulted the Electoral Commission as to the intelligibility of that question, and
- (b) when so laying the draft, the Secretary of State also laid before each House a report stating any views as to the intelligibility of that question which were expressed by the Electoral Commission in response to that consultation.

(8C) Where any such regulations specify not only the question to be asked in a referendum but also any statement which is to precede that question on the ballot paper at the referendum, any reference in subsection (8B) to the intelligibility of that question is to be read as a reference to the intelligibility of that question and that statement taken together.

(8D) No regulations which make provision for the matters mentioned in subsection (8)(c) may be made under subsection (5) unless—

- (a) before laying a draft of the regulations before Parliament in accordance with section 105(6), the Secretary of State sought, and had regard to, the views of the Electoral Commission as to the provision to be made by the regulations as to those matters, and
- (b) where the draft regulations laid before Parliament made provision as to those matters otherwise than in accordance with the views of the Electoral Commission, the Secretary of State, when so laying the draft, also laid before each House a statement of his reasons for departing from the views of the Commission.

]²

(9) In subsections (1), (4) to (6) and (8) [to (8C)]³ “referendum” means a referendum held under section 27 [or 33K]⁴ or by virtue of regulations or an order made under any provision of this Part.

Notes

- ¹ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.69(2) (December 30, 2007)
- ² Added by Political Parties, Elections and Referendums Act 2000 c. 41 Sch.21 para.18(3) (July 1, 2001 subject to transitional provisions specified in SI 2001/222 Sch.2 Part II)
- ³ Words inserted by Political Parties, Elections and Referendums Act 2000 c. 41 Sch.21 para.18(4) (July 1, 2001 subject to transitional provisions specified in SI 2001/222 Sch.2 Part II)
- ⁴ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.69(3) (December 30, 2007)

Amendments Pending

Pt II s. 45(9): words inserted by Local Government (Wales) Measure 2011 c. 04, Pt 4 c. 3 s. 54(4) (July 10, 2011)

Commencement

Pt II s. 45(1)-(4)(b): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; February 19, 2001 in relation to England otherwise; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2948 art. 2; SI 2001/415 art. 2(a))

Pt II s. 45(5)-(9): August 7, 2000 in relation to England as relates to conferring powers to make secondary legislation, give directions and issue guidance; February 19, 2001 in relation to England otherwise; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2; SI 2001/415 art. 2(a))

Extent

Pt II s. 45(1)-(9): England, Wales

Amendments to the 1972 Act

Law In Force

46. Amendments to the 1972 Act.

Schedule 3, which contains amendments to the Local Government Act 1972, has effect.

Commencement

Pt II s. 46: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(e))

Extent

Pt II s. 46: England, Wales

Power to make further provision

Law In Force

47.— Power to make incidental, consequential provision etc.

(1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Part.

(2) The provision which may be made under subsection (1) includes provision modifying any enactment (whenever passed or made).

(3) The power under subsection (2) to modify an enactment is a power—

- (a) to apply that enactment with or without modifications,
- (b) to extend, disapply or amend that enactment, or
- (c) to repeal or revoke that enactment with or without savings.

[(4) The provision which may be made under subsection (1) includes provision relating to changes in local authority governance arrangements (including changes of the kinds set out in sections 33A to 33D).

(5) That includes—

- (a) provision relating to the old governance arrangements, the new governance arrangements, or both kinds of governance arrangements,
- (b) provision as to the dates on which and years in which relevant elections may or must be held,
- (c) provision as to the intervals between relevant elections, and
- (d) provision as to the term of office of any member of any form of executive.

(6) In subsection (5) “relevant election” means—

- (a) an election for the return of an elected mayor;
- (b) the election by a local authority of the executive leader of a leader and cabinet executive (England).

(7) Nothing in subsection (2), (3), (4) or (5) affects the generality of the power in subsection (1).]¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.68(2) (December 30, 2007)

Commencement

Pt II s. 47(1)-(3)(c): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 47(1)-(7): England, Wales

Interpretation

☑ Law In Force

! Amendment(s) Pending

48.— Interpretation of Part II.

(1) In this Part, unless the context otherwise requires—

“alternative arrangements” has the meaning given by section 32(1),

“council manager” has the meaning given by section 11(4)(b),

“elected executive member” has the meaning given by section 39(4),

“elected mayor” has the meaning given by section 39(1),

“electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983,

“enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978),

“executive”, in relation to a local authority, is to be construed in accordance with section 11,

“executive arrangements” has the meaning given by section 10,

“executive leader” has the meaning given by [section 11(2A)(a) or (3)(a)]¹,

“fall-back proposals” and “outline fall-back proposals” are to be construed in accordance with section 27(1) and (2),

“first preference vote” has the meaning given by section 42(1)(a),

“local authority” means—

(a) in relation to England, a county council, a district council or a London borough council, and

(b) in relation to Wales, a county council or a county borough council,

“local government elector” has the meaning given by section 270(1) of the Local Government Act 1972,

[“ordinary day of election”, in relation to a local authority, means the day of ordinary elections of councillors of the authority,]²

“overview and scrutiny committee” has the meaning given by section 21(1),

“the political balance requirements” means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the Local Government and Housing Act 1989,

“second preference vote” has the meaning given by section 42(1)(b).

[(1A) In this Part “relevant election years”, in relation to a local authority, means the years specified in the second column of the following table in relation to that type of authority.

<i>Type of local authority</i>	<i>Relevant election years</i>
Metropolitan district	2010 and every fourth year afterwards
County	2009 and every fourth year afterwards
London borough	2010 and every fourth year afterwards
Non-metropolitan district	2011 and every fourth year afterwards

] ³

(2) Any reference in this Part to the chairman of a local authority—

(a) is a reference to that person whether or not he is entitled to another style, and

- (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the Local Government Act 1972) is referred to in Part I of that Schedule as the mayor of the borough.
- (3) Any reference in this Part to the vice-chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
 - (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the Local Government Act 1972) is referred to in Part I of that Schedule as the deputy mayor.
- (4) Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.
- (5) Section 101 of the Local Government Act 1972 does not apply to the function of the passing of a resolution under any provision made by or under this Part.
- (6) Any functions conferred on a local authority by virtue of this Part are not to be the responsibility of an executive of the authority under executive arrangements.
- (7) Any directions given by the Secretary of State under any provision of this Part—
- (a) may be varied or revoked by subsequent directions given by him under that provision, and
 - (b) may make different provision for different cases, local authorities or descriptions of local authority.

Notes

- ¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.70(2) (December 30, 2007)
- ² Definition inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.70(3) (December 30, 2007)
- ³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 3 s.70(4) (December 30, 2007)

Amendments Pending

Pt II s. 48(1) definition of "council manager": definition repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011)

Commencement

Pt II s. 48(1)-(7)(b): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales (SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Pt II s. 48(1)-(7)(b): England, Wales

Law In Force

[48A.

Functions of the Lord President of the Council

See the Lord President of the Council Order 2010 by virtue of which functions of the Secretary of State under sections 44 and 45 are exercisable concurrently with the Lord President of the Council.

]¹

Notes

- ¹ Added by Lord President of the Council Order 2010/1837 Sch.1 para.8 (August 18, 2010: insertion has effect subject to transitional provisions specified in SI 2010/1837 art.3)

Extent

Pt II s. 48A: United Kingdom

PART III
CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

CHAPTER I

CONDUCT OF MEMBERS

Standards of conduct

✔ Law In Force

! Amendment(s) Pending

49.— Principles governing conduct of members of relevant authorities.

(1) The Secretary of State may by order specify the principles which are to govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales.

(2) The National Assembly for Wales may by order specify the principles which are to govern the conduct of members and co-opted members of relevant authorities in Wales (other than police authorities).

[(2C) An order under subsection (1) may define, for the purposes of the order—
“official capacity”; and
“criminal offence”.

(2D) An order under subsection (2)—

(a) may specify principles which are to apply to a person at all times;

(b) may specify principles which are to apply to a person otherwise than at all times.

]¹

(3) Before making an order under this section, the Secretary of State must consult—

(a) such representatives of relevant authorities in England as he considers appropriate,

(b) the Audit Commission,

(c) the Commission for Local Administration in England, and

(d) such other persons (if any) as he considers appropriate.

(4) Before making an order under this section so far as it relates to police authorities in Wales, the Secretary of State must consult—

(a) such representatives of police authorities in Wales as he considers appropriate,

- [(aa) the Auditor General for Wales,]²
 (b) [the Public Services Ombudsman for Wales]³ , and
 (c) the National Assembly for Wales.
- (5) Before making an order under this section, the National Assembly for Wales must consult—
 (a) such representatives of relevant authorities in Wales as it considers appropriate,
 (b) [Auditor General for Wales]⁴ ,
 (c) [the Public Services Ombudsman for Wales]⁵ , and
 (d) such other persons (if any) as it considers appropriate.
- (6) In this Part “relevant authority” means—
 (a) a county council,
 (b) a county borough council,
 (c) a district council,
 (d) a London borough council,
 (e) a parish council,
 (f) a community council,
 (g) the Greater London Authority,
 (h) the Metropolitan Police Authority,
 (i) the London Fire and Emergency Planning Authority,
 (j) the Common Council of the City of London in its capacity as a local authority or police authority,
 (k) the Council of the Isles of Scilly,
 [(l) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies.,]⁶
 (m) a police authority,
 (n) a joint authority established by Part IV of the Local Government Act 1985,
 [(na) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009,
 (nb) a combined authority established under section 103 of that Act,]⁷
 (o) the Broads Authority, or
 (p) a National Park authority established under section 63 of the Environment Act 1995.
- (7) In this Part “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who—
 (a) is a member of any committee or sub-committee of the authority, or
 (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
 and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee.[...] ⁶

Notes

- ¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.183(1) (January 31, 2008 as SI 2008/172)
- ² Added by Public Audit (Wales) Act 2004 c. 23 Sch.2 para.53(2) (April 1, 2005)
- ³ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.2(a) (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))
- ⁴ Words substituted by Public Audit (Wales) Act 2004 c. 23 Sch.2 para.53(3) (April 1, 2005)

- ⁵ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.2(b) (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))
- ⁶ Substituted by Fire and Rescue Services Act 2004 c. 21 Sch.1 para.94 (November 10, 2004 as SI 2004/2917)
- ⁷ Added by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.6 para.93 (December 17, 2009)

Amendments Pending

Pt III c. I s. 49(2A)-(2B): added by Local Government and Public Involvement in Health Act 2007 c. 28, Pt 10 c. 1 s. 183(1) (date to be appointed)

Commencement

Pt III c. I s. 49(1), (3)-(4)(c), (6), (6)(c)-(6)(e), (6)(g)-(6)(k), (6)(n)-(6)(o): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. I s. 49(2), (5)-(5)(d), (6)(a)-(6)(b), (6)(f), (6)(l)-(6)(m), (6)(p)-(7)(b): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. I s. 49(1)-(7)(b): England, Wales

Law In Force

Amendment(s) Pending

50.— Model code of conduct.

(1) The Secretary of State may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in Wales (referred to in this Part as a model code of conduct).

(2) The National Assembly for Wales may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales other than police authorities (also referred to in this Part as a model code of conduct).

(3) The power under subsection (1) or (2) to issue a model code of conduct includes power to revise any such model code which has been issued.

(4) A model code of conduct—

- (a) must be consistent with the principles for the time being specified in an order under section 49(1) or 49(2) (as the case may be),
- (b) may include provisions which are mandatory, and
- (c) may include provisions which are optional.

[(4C) A model code of conduct issued under subsection (1) may define for the purposes of the code—

- “official capacity”; and
- “criminal offence”.

(4D) Provision included under subsection (4A) or (4C) in a model code of conduct—

- (a) must be consistent with the provision for the time being included in an order under section 49(1) by virtue of section 49(2A) or (2C);
- (b) is to be mandatory except to the extent that it relates to an optional provision;

(c) to the extent that it relates to an optional provision, is to be mandatory where that optional provision is incorporated in a code of conduct under section 51.

(4E) A model code of conduct issued under subsection (2) may include—

- (a) provisions which are to apply to a person at all times;
- (b) provisions which are to apply to a person otherwise than at all times.

] ¹

(5) Before making an order under this section, the Secretary of State or the National Assembly for Wales must carry out such consultation as is required, by virtue of section 49, before an order is made under that section.

(6) For the purpose of facilitating the making of an order under this section, the Secretary of State may invite such body as he considers appropriate to draw up, and send to him, a proposed model code of conduct or proposed revisions to such a model code.

(7) An invitation under subsection (6)—

- (a) must be made in writing,
- (b) may be made to more than one body,
- (c) may be limited to particular descriptions of authority,
- (d) must specify the period within which the proposals are to be drawn up and sent to the Secretary of State,
- (e) may require different proposals to be drawn up for different authorities or descriptions of authority, and
- (f) may require any body to which the invitation is made to consult such persons as may be specified in the invitation.

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.183(2) (January 31, 2008 as SI 2008/172)

Amendments Pending

Pt III c. I s. 50(4A)-(4B): added by Local Government and Public Involvement in Health Act 2007 c. 28, Pt 10 c. 1 s. 183(2) (date to be appointed)

Commencement

Pt III c. I s. 50(1): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. I s. 50(2)-(7)(f): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. I s. 50(1)-(7)(f): England, Wales

✔ Law In Force

! Amendment(s) Pending

51.— Duty of relevant authorities to adopt codes of conduct.

(1) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which the first order under section 50 which applies to them is made, to pass a resolution adopting a code as regards the conduct which is expected of members and co-opted members of the authority (referred to in this Part as a code of conduct).

(2) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which any subsequent order under section 50 which applies to them is made, to pass a resolution—

- (a) adopting a code of conduct in place of their existing code of conduct under this section, or
- (b) revising their existing code of conduct under this section.

(3) A relevant authority may by resolution—

- (a) adopt a code of conduct in place of their existing code of conduct under this section, or
- (b) revise their existing code of conduct under this section.

(4) A code of conduct or revised code of conduct—

- (a) must incorporate any mandatory provisions of the model code of conduct which for the time being applies to that authority,
- (b) may incorporate any optional provisions of that model code, and
- (c) may include other provisions which are consistent with that model code.

[(4C) The provisions which may be included under subsection (4)(c) by a relevant authority in Wales other than a police authority include—

- (a) provisions which are to apply to a person at all times;
- (b) provisions which are to apply to a person otherwise than at all times.

]¹

(5) Where a relevant authority fail to comply with the duty under subsection (1) or (2) before the end of the period mentioned in that subsection—

- (a) they must comply with that duty as soon as reasonably practicable after the end of that period, and
- (b) any mandatory provisions of the model code of conduct which for the time being applies to the authority are to apply in relation to the members and co-opted members of the authority for so long as the authority fail to comply with that duty.

(6) As soon as reasonably practicable after adopting or revising a code of conduct under this section, a relevant authority must—

- (a) ensure that copies of the code or revised code are available at an office of the authority for inspection by members of the public at all reasonable hours,
- (b) publish in one or more newspapers circulating in their area a notice which—
 - (i) states that they have adopted or revised a code of conduct,
 - (ii) states that copies of the code or revised code are available at an office of the authority for inspection by members of the public at such times as may be specified in the notice, and
 - (iii) specifies the address of that office, and

- (c) send a copy of the code or revised code—
- (i) in the case of a relevant authority in England or a police authority in Wales, to the Standards Board for England,
 - (ii) in the case of a relevant authority in Wales, to the [Public Services Ombudsman for Wales]² .

(7) Where a relevant authority themselves publish a newspaper, the duty to publish a notice under subsection (6)(b) is to be construed as a duty to publish that notice in their newspaper and at least one other newspaper circulating in their area.

(8) A relevant authority may publicise their adoption or revision of a code of conduct under this section in any other manner that they consider appropriate.

(9) A relevant authority's function with respect to the passing of a resolution under this section may be discharged only by the authority (and accordingly, in the case of a relevant authority to which section 101 of the Local Government Act 1972 applies, is not to be a function to which that section applies).

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.183(3) (January 31, 2008 as SI 2008/172)

² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.3 (April 1, 2006)

Amendments Pending

Pt III c. I s. 51(4A)-(4B): added by Local Government and Public Involvement in Health Act 2007 c. 28, Pt 10 c. 1 s. 183(3) (date to be appointed)

Commencement

Pt III c. I s. 51(1)-(9): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. I s. 51(1)-(9): England, Wales

☑ Law In Force

⚠ Amendment(s) Pending

52.— Duty to comply with code of conduct.

(1) A person who is a member or co-opted member of a relevant authority at a time when the authority adopt a code of conduct under section 51 for the first time—

- (a) must, before the end of the period of two months beginning with the date on which the code of conduct is adopted, give to the authority a written undertaking that in performing his functions he will observe the authority's code of conduct for the time being under section 51, and
- (b) if he fails to do so, is to cease to be a member or co-opted member at the end of that period.

(2) The form of declaration of acceptance of office which may be prescribed by an order under section 83 of the Local Government Act 1972 may include an undertaking by the declarant that in

performing his functions he will observe the authority's code of conduct for the time being under section 51.

(3) A person who becomes a member of a relevant authority to which section 83 of that Act does not apply at any time after the authority have adopted a code of conduct under section 51 for the first time may not act in that office unless he has given the authority a written undertaking that in performing his functions he will observe the authority's code of conduct for the time being under section 51.

(4) A person who becomes a co-opted member of a relevant authority at any time after the authority have adopted a code of conduct under section 51 for the first time may not act as such unless he has given the authority a written undertaking that in performing his functions he will observe the authority's code of conduct for the time being under section 51.

[(5) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b)–

(a) the references in subsections (2) to (4) to the authority's code of conduct for the time being under section 51 include the mandatory provisions which for the time being apply to the members and co-opted members of the authority, and

(b) the references in subsections (3) and (4) to any time after the authority have adopted a code of conduct under section 51 for the first time are to be read as references to any time after the coming into force of section 184 of the Local Government and Public Involvement in Health Act 2007. [³] ²

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.184(2) (January 31, 2008)

² Words repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(15) para.1 (January 31, 2008 as SI 2008/172)

³ **In relation to Wales:**

52.— Duty to comply with code of conduct.

(1) A person who is a member or co-opted member of a relevant authority at a time when the authority adopt a code of conduct under section 51 for the first time–

(a) must, before the end of the period of two months beginning with the date on which the code of conduct is adopted, give to the authority a written undertaking that he will observe the authority's code of conduct for the time being under section 51, and

(b) if he fails to do so, is to cease to be a member or co-opted member at the end of that period.

(2) The form of declaration of acceptance of office which may be prescribed by an order under section 83 of the Local Government Act 1972 may include an undertaking by the declarant that he will observe the authority's code of conduct for the time being under section 51.

(3) A person who becomes a member of a relevant authority to which section 83 of that Act does not apply at any time after the authority have adopted a code of conduct under section 51 for the first time may not act in that office unless he has given the authority a written undertaking that he will observe the authority's code of conduct for the time being under section 51.

(4) A person who becomes a co-opted member of a relevant authority at any time after the authority have adopted a code of conduct under section 51 for the first time may not act as such unless he has given the authority a written undertaking that he will observe the authority's code of conduct for the time being under section 51.

(5) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b)–

- (a) the references in subsections (2) to (4) to the authority's code of conduct for the time being under section 51 include the mandatory provisions which for the time being apply to the members and co-opted members of the authority, and
- (b) the references in subsections (3) and (4) to any time after the authority have adopted a code of conduct under section 51 for the first time are to be read as references to any time after the coming into force of section 184 of the Local Government and Public Involvement in Health Act 2007.

Amendments Pending

Pt III c. I s. 52(1)-(4): repealed by Local Government and Public Involvement in Health Act 2007 c. 28, Sch. 18(15) para. 1 (date to be appointed)

Commencement

Pt III c. I s. 52(1)-(4): December 19, 2000 in relation to England and to police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. I s. 52(1)-(5)(b): England, Wales

Standards committees

Law In Force

53.— Standards committees.

(1) Subject to subsection (2), every relevant authority must establish a committee (referred to in this Part as a standards committee) which is to have the functions conferred on it by or under this Part.

(2) Subsection (1) does not apply to a parish council or community council.

(3) The number of members of a standards committee of a relevant authority in England or a police authority in Wales and their term of office are to be fixed by the authority (subject to any provision made by virtue of subsection (6)(a)).

(4) A standards committee of a relevant authority in England or a police authority in Wales must include–

- (a) at least two members of the authority, and
- (b) at least one person who is not a member, or an officer, of that or any other relevant authority [,]¹

[and must be chaired by a person falling within paragraph (b).]¹

(5) A standards committee of a relevant authority in England which are operating executive arrangements–

- (a) may not include the elected mayor or executive leader, and
- (b) may not be chaired by a member of the executive.

(6) The Secretary of State may by regulations make provision–

- (a) as to the size and composition of standards committees of relevant authorities in England and police authorities in Wales,

- (b) as to the appointment to such committees of persons falling within subsection (4)(b),
 - (c) with respect to the access of the public to meetings of such committees,
 - (d) with respect to the publicity to be given to meetings of such committees,
 - (e) with respect to the production of agendas for, or records of, meetings of such committees,
 - (f) with respect to the availability to the public or members of relevant authorities of agendas for, records of or information connected with meetings of such committees,
 - (g) as to the proceedings and validity of proceedings of such committees.
- (7) The Standards Board for England—
- (a) may issue guidance with respect to the size and composition of standards committees of relevant authorities in England and police authorities in Wales, and
 - (b) must send a copy of any such guidance to the Secretary of State.
- (8) A member of a standards committee of a relevant authority in England or a police authority in Wales who is not a member of the authority is entitled to vote at meetings of the committee.
- (9) A relevant authority in England and a police authority in Wales must send a statement which sets out the terms of reference, or any revised terms of reference, of their standards committee to the Standards Board for England.
- (10) A standards committee of a relevant authority in England or a police authority in Wales is not to be regarded as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- (11) The National Assembly for Wales may by regulations make provision—
- (a) as to the size and composition of standards committees of relevant authorities in Wales other than police authorities (including provision with respect to the appointment to any such committee of persons who are not members of the relevant authority concerned),
 - (b) as to the term of office of members of any such committees,
 - (c) as to the persons who may, may not or must chair any such committees,
 - (d) as to the entitlement to vote of members of any such committee who are not members of the relevant authority concerned,
 - (e) for or in connection with treating any such committees as bodies to which section 15 of the Local Government and Housing Act 1989 does not apply,
 - (f) with respect to the access of the public to meetings of such committees,
 - (g) with respect to the publicity to be given to meetings of such committees,
 - (h) with respect to the production of agendas for, or records of, meetings of such committees,
 - (i) with respect to the availability to the public or members of relevant authorities of agendas for, records of or information connected with meetings of any such committees,
 - (j) as to the proceedings and validity of proceedings of any such committees,
 - (k) for or in connection with requiring relevant authorities in Wales (other than police authorities) to send to [the Public Services Ombudsman for Wales]² statements which set out the terms of reference of their standards committees.
- (12) The provision which may be made by virtue of subsection (6)(c) to (f) or (11)(f) to (i) includes provision which applies or reproduces (with or without modifications) any provisions of Part VA of the Local Government Act 1972.

Notes

¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.187 (April 1, 2008)

- ² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.4 (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))

Commencement

Pt III c. I s. 53(1)-(10): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. I s. 53(11)-(12): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. I s. 53(1)-(12): England, Wales

Law In Force

54.— Functions of standards committees.

- (1) The general functions of a standards committee of a relevant authority are—
- (a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and
 - (b) assisting members and co-opted members of the authority to observe the authority's code of conduct.
- (2) Without prejudice to its general functions, a standards committee of a relevant authority has the following specific functions—
- (a) advising the authority on the adoption or revision of a code of conduct,
 - (b) monitoring the operation of the authority's code of conduct, and
 - (c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.
- (3) A relevant authority may arrange for their standards committee to exercise such other functions as the authority consider appropriate.
- [(3A) In relation to a relevant authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), references in subsection (1)(b) and (2)(b) and (c) to the authority's code of conduct are to those mandatory provisions.]¹
- (4) The Secretary of State may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities in England and police authorities in Wales.
- (5) The National Assembly for Wales may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities in Wales (other than police authorities).
- (6) The Standards Board for England may issue guidance with respect to the exercise of functions by standards committees of relevant authorities in England and police authorities in Wales.
- (7) The National Assembly for Wales may issue guidance with respect to the exercise of functions by standards committees of relevant authorities in Wales (other than police authorities).

Notes

- ¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.184(3) (January 31, 2008)

Commencement

Pt III c. I s. 54(1)-(4), (6): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. I s. 54(5), (7): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. I s. 54(1)-(7): England, Wales

Law In Force

[54A Sub-committees of standards committees

(1) A standards committee of a relevant authority may appoint one or more sub-committees for the purpose of discharging any of the committee's functions, whether or not to the exclusion of the committee.

(2) Subsection (1) does not apply to functions under [section 56]².

(3) A sub-committee under subsection (1) shall be appointed from among the members of the standards committee by which it is appointed [, but this is subject to section 55(7)(b)]³.

(4) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in England or of a police authority in Wales—

- (a) regulations under section 53(6)(a) and (c) to (g) may make provision in relation to such sub-committees, and
- (b) sections 53(7), (8) and (10) and 54(4) and (6) apply in relation to such sub-committees as they apply in relation to standards committees.

(5) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in Wales other than a police authority—

- (a) regulations under section 53(11) may make provision in relation to such sub-committees, and
- (b) section 54(5) and (7) apply in relation to such sub-committees as they apply in relation to standards committees.

(6) Subject to [section 55(5) and to]⁴ any provision made by regulations under section 53(6)(a) or (11)(a) (as applied by this section)—

- (a) the number of members of a sub-committee under subsection (1), and
- (b) the term of office of those members,

are to be fixed by the standards committee by which the sub-committee is appointed.

] ¹

Notes

¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.113(1) (November 18, 2003)

² Words repealed subject to savings specified in SI 2008/172 art.2(2) by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(15) para.1 (January 31, 2008: repeal has effect on January 31, 2008 as specified in SI 2008/172 art.2(1)(u)(ii) subject to savings specified in art.2(2))

³ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(1)(b) (January 31, 2008)

- ⁴ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(1)(c) (January 31, 2008)

Extent

Pt III c. I s. 54A(1)-(6)(b): England, Wales

Law In Force

55.— Standards committees [...]¹ for parish councils.

(1) A standards committee of a district council is to have the same functions in relation to—
(a) the parish councils for which the district council are the responsible authority, and
(b) the members of those parish councils,
as the standards committee has under section 54(1) and (2) in relation to the district council and the members of the district council.

(2) A standards committee of a unitary county council is to have the same functions in relation to—
(a) the parish councils for which the county council are the responsible authority, and
(b) the members of those parish councils,
as the standards committee has under section 54(1) and (2) in relation to the county council and the members of the county council.

(3) [...]²

(4) In deciding whether it will be their standards committee, or a sub-committee of their standards committee, which is to discharge [a function]³ conferred by this section, a district council or unitary county council must consult the parish councils for which they are the responsible authority.

(5) [Where a function conferred by this section is to be exercised by a sub-committee of the standards committee of a district council or unitary county council, the number of members of the sub-committee,]⁴ and the term of office of those members, are to be fixed by the standards committee after consultation with the parish councils for which the district council or unitary county council are the responsible authority.

[(5A) Subsection (5) is subject to any provision made by regulations under section 53(6)(a) (as applied by section 54A).]⁵

(6) Where the standards committee of a district council or unitary county council discharges [any function]⁶ conferred by this section, the standards committee—
(a) must include at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority, and
(b) must ensure that at least one person falling within paragraph (a) is present at any meeting of the committee when matters relating to those parish councils, or the members of those parish councils, are being considered.

[(7) Where a sub-committee of the standards committee of a district council or unitary county council discharges any function conferred by this section, the sub-committee—
(a) must include at least one member of the standards committee who falls within section 53(4)(b);
(b) must include at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority; and

(c) must ensure that at least one person falling within paragraph (b) is present at any meeting of the subcommittee when matters relating to those parish councils, or the members of those parish councils, are being considered.

] ⁷

(8) [Regulations] ¹ under section 53(6)(b) may make provision as to the appointment of persons falling within subsection (6)(a) or (7)(a) or (b) of this section.

(9)-(10) [...] ²

(11) Any function which by virtue of the following provisions of this Part is exercisable by [...] ¹ the standards committee of a relevant authority which is a parish council is to be exercisable by [...] ¹ –

(a) the standards committee of the district council or unitary county council which are the responsible authority in relation to the parish council, or

(b) where that standards committee has appointed a sub-committee [with responsibility for that function,] ⁸ that sub-committee [.] ¹

[...] ¹

[(11A) Any function which by virtue of the following provisions of this Part is exercisable in relation to the standards committee of a relevant authority which is a parish council is to be exercisable in relation to the standards committee of the district council or unitary county council which are the responsible authority in relation to the parish council.

(11B) Any reference in the following provisions of this Part to the standards committee of a relevant authority which is a parish council is to be construed in accordance with subsections (11) and (11A).] ⁹

(12) A district council or unitary county council are the responsible authority–

(a) in relation to a parish council which is not a common parish council, if the parish is situated within the area of the district council or county council,

(b) in relation to a parish council which is a common parish council–

(i) if the parishes in the group are wholly situated within that area, or

(ii) where that is not the case, if the greatest number of local government electors for the parishes in the group is situated in that area.

(13) In this section “unitary county council” means the council of a county in England in which there are no district councils.

Notes

¹ Words repealed subject to savings specified in SI 2008/172 art.2(2) by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(15) para.1 (January 31, 2008: repeal has effect on January 31, 2008 as specified in SI 2008/172 art.2(1)(u)(ii) subject to savings specified in art.2(2))

² Repealed subject to savings specified in SI 2008/172 art.2(2) by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(15) para.1 (January 31, 2008: repeal has effect on January 31, 2008 as specified in SI 2008/172 art.2(1)(u)(ii) subject to savings specified in art.2(2))

³ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(c) (January 31, 2008)

⁴ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(d) (January 31, 2008)

⁵ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(e) (January 31, 2008)

- ⁶ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(f) (January 31, 2008)
- ⁷ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(g) (January 31, 2008)
- ⁸ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(j)(ii) (January 31, 2008)
- ⁹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.188(2)(k) (January 31, 2008)

Commencement

Pt III c. I s. 55(1)-(13): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. I s. 55(1)-(13): England, Wales

Law In Force

56.— Standards committees or sub-committees for community councils.

(1) A standards committee of a county council in Wales is to have the same functions in relation to—

- (a) the community councils which are situated in the area of the county council, and
- (b) the members of those community councils,

as the standards committee has under section 54(1) and (2) in relation to the county council and the members of the county council.

(2) A standards committee of a county borough council is to have the same functions in relation to—

- (a) the community councils which are situated in the area of the county borough council, and
- (b) the members of those community councils,

as the standards committee has under section 54(1) and (2) in relation to the county borough council and the members of the county borough council.

(3) A standards committee of a county council or county borough council may appoint a sub-committee for the purpose of discharging all of the functions conferred on the standards committee by this section.

(4) In deciding whether it will be their standards committee, or a sub-committee of their standards committee, which is to discharge the functions conferred by this section, a county council or county borough council must consult the community councils which are situated in their area.

(5) Regulations under section 53(11) may make provision in relation to sub-committees appointed under this section.

(6) Subsections (5) and (7) of section 54 apply in relation to sub-committees of standards committees appointed under this section as they apply in relation to standards committees.

(7) Any function which by virtue of the following provisions of this Part is exercisable by or in relation to the standards committee of a relevant authority which is a community council is to be exercisable by or in relation to—

- (a) the standards committee of the county council or county borough council in whose area the community council is situated, or
- (b) where that standards committee has appointed a sub-committee under this section, that sub-committee;

and any reference in the following provision of this Part to the standards committee of a relevant authority which is a community council is to be construed accordingly.

Commencement

Pt III c. I s. 56(1)-(7)(b): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. I s. 56(1)-(7)(b): England, Wales

Law In Force

[56A Joint committees of relevant authorities in England

(1) The Secretary of State may make regulations under which two or more relevant authorities in England may—

- (a) establish a joint committee of those authorities; and
- (b) arrange for relevant functions to be exercisable by that committee.

(2) In this section a “relevant function” means a function conferred by or under this Part or any other enactment on the standards committee of any (or each) of the relevant authorities.

(3) The regulations may in particular—

- (a) specify functions in relation to which arrangements may, or may not, be made;
- (b) make provision, in relation to joint committees or subcommittees of joint committees, which corresponds to or applies (with or without modifications)—
 - (i) any provision of, or that could be made under, regulations under section 53(6) or 54(4),
 - (ii) any provision of section 53(3) to (5), (7) to (9), 54(6) or 54A(1), (3) or (6), or
 - (iii) any provision of section 55(4) to (7).

(4) Regulations under this section may modify any provision of this Part, or any other enactment relating to a standards committee or to any function of a standards committee, in relation to cases where a function of a standards committee is exercisable by a joint committee.

(5) In this section “enactment” includes any enactment or subordinate legislation, whenever passed or made.

(6) Any reference in this section to a relevant authority in England does not include a parish council.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.189 (January 31, 2008)

Extent

Pt III c. I s. 56A(1)-(6): England, Wales

CHAPTER II**INVESTIGATIONS ETC: ENGLAND***Standards Board for England*

Law In Force

57.— Standards Board for England.

- (1) There is to be a body corporate known as the Standards Board for England.
- (2) The Standards Board for England is to consist of not less than three members appointed by the Secretary of State.
- (3) The Standards Board for England is to have the functions conferred on it by this Part and such other functions as may be conferred on it by order made by the Secretary of State under this subsection.
- (4) In exercising its functions the Standards Board for England must have regard to the need to promote and maintain high standards of conduct by members and co-opted members of relevant authorities in England.
- (5) The Standards Board for England—
 - (a) must appoint employees known as ethical standards officers who are to have the functions conferred on them by this Part,
[(aa) may issue guidance to ethical standards officers with respect to the exercise by those officers of their functions,]¹
 - (b) may issue guidance to relevant authorities in England and police authorities in Wales on matters relating to the conduct of members and co-opted members of such authorities,
 - (c) may issue guidance to relevant authorities in England and police authorities in Wales in relation to the qualifications or experience which monitoring officers should possess, and
 - (d) may arrange for any such guidance to be made public.
- (6) Schedule 4 makes further provision in relation to the Standards Board for England.

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.190(1) (January 31, 2008)

Commencement

Pt III c. II s. 57(1)-(6): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 57(1)-(6): England, Wales

Law In Force

58.—

[Existing s.58 is not repealed but is substituted and inserted under the heading **Written allegations**.]¹

Notes

¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Commencement

Pt III c. II s. 58(1)-(3): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 58(1)-(3): England, Wales

[Written allegations]¹

Notes

¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Law In Force

[57A Written allegations: right to make, and initial assessment

(1) A person may make a written allegation to the standards committee of a relevant authority in England that a member or co-opted member (or former member or co-opted member) of that authority has failed, or may have failed, to comply with the authority's code of conduct.

(2) Where a standards committee receives an allegation under subsection (1) it must—

- (a) refer the allegation to the monitoring officer of the relevant authority concerned (see section 66),
- (b) refer the allegation to the Standards Board for England (see section 58), or
- (c) decide that no action should be taken in respect of the allegation.

(3) Where an allegation under subsection (1) is in respect of a person who—

- (a) is no longer a member or co-opted member of the relevant authority concerned, but
- (b) is a member or co-opted member of another relevant authority in England,

the standards committee may, if it thinks it more appropriate than referring the allegation to the monitoring officer of the relevant authority concerned, refer the allegation to the monitoring officer of that other relevant authority.

(4) If the standards committee decides that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing, to the person who made the allegation, of the decision and the reasons for the decision.

(5) Subsections (2) to (4) are subject to any direction under section 57D.

(6) The Standards Board for England—

(a) without prejudice to section 54(6), may issue guidance with respect to the exercise of functions under this section and sections 57B and 57C by standards committees of relevant authorities in England;

(b) may give a direction to the standards committee of a relevant authority in England with respect to the exercise of the committee's functions under this section.

] ¹

Notes

¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Extent

Pt III c. II s. 57A(1)-(6)(b): England, Wales

Law In Force

[57B Right to request review of decision not to act

(1) This section applies where a decision is made under section 57A(2) that no action should be taken in respect of an allegation.

(2) The person who made the allegation may make a request to the standards committee of the relevant authority concerned for that decision to be reviewed.

(3) A request under subsection (2)—

(a) must be in writing, and

(b) may not be made after 30 days beginning with the date of the notice under section 57A(4).

(4) Where a request under subsection (2) is received by a standards committee—

(a) section 57A(2) to (4) again apply to the standards committee, and

(b) it must make a reference under section 57A(2)(a) or (b) or (3), or a decision under section 57A(2)(c), within 3 months beginning with the date it received the request.

(5) If by virtue of subsection (4) a decision is made under section 57A(2) that no action should be taken in respect of an allegation, this section does not apply in relation to that decision.

(6) Subsection (4) is subject to any direction under section 57D.

] ¹

Notes

- ¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Extent

Pt III c. II s. 57B(1)-(6): England, Wales

Law In Force

[57C Information to be given to subject of allegation

- (1) Subsections (2) to (4) apply where a person makes an allegation under section 57A to a standards committee.
- (2) The standards committee must take reasonable steps to give a written summary of the allegation to the person who is the subject of the allegation ("P"); but this is subject to regulations under subsection (7).
- (3) If the standards committee makes a decision under section 57A(2) that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing to P of the decision and the reasons for the decision.
- (4) If the standards committee receives a request under section 57B in relation to the allegation, it must take reasonable steps to give notice in writing to P of the request.
- (5) The reference in subsection (3) to a decision under section 57A(2) includes a decision under section 57A(2) as applied by section 57B(4) or 58(3).
- (6) Subsections (2) to (4) are subject to any direction under section 57D.
- (7) The Secretary of State may by regulations—
- (a) provide that in circumstances prescribed by the regulations the duty in subsection (2) does not arise at the time the standards committee receives the allegation, and
 - (b) make provision, in relation to cases where that duty has been prevented by the regulations from arising at that time, as to when it does arise.

] ¹

Notes

- ¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Extent

Pt III c. II s. 57C(1)-(7)(b): England, Wales

✔ Law In Force

[57D Power to suspend standards committee's functions

- (1) In such circumstances as may be prescribed, the Standards Board for England may direct that, until such time as the direction may be revoked by the Standards Board for England—
- (a) sections 57A(2) to (4), 57B(4) and 57C(2) to (4) shall not apply to the standards committee of a specified authority in relation to relevant allegations and relevant requests, and
 - (b) that standards committee must refer any such allegations or requests to a specified body.
- (2) The body which is specified in the direction may be—
- (a) the Standards Board for England, or
 - (b) the standards committee of another relevant authority in England, if that committee has consented to being so specified.
- (3) For the purposes of subsection (1) an allegation is “relevant” if it is an allegation under section 57A which—
- (a) is received after the direction is given, or
 - (b) was received before then, but is an allegation in respect of which the standards committee has yet to comply with section 57A(2).
- (4) For the purposes of subsection (1) a request is “relevant” if it is a request under section 57B which—
- (a) is received after the direction is given, or
 - (b) was received before then, but relates to an allegation in respect of which the standards committee has yet to comply with section 57A(2) (as applied by section 57B(4)).
- (5) In subsection (3) “received”, in relation to an allegation, means—
- (a) received under section 57A, or
 - (b) received on a reference back to the standards committee under section 58 or regulations under section 66.
- (6) The Secretary of State may by regulations make provision—
- (a) for prescribed provisions of or made under this Part to apply, with or without modifications, where an allegation or request has been referred by reason of a direction (including where it has been referred and subsequently the direction is revoked),
 - (b) prescribing the circumstances in which the power to revoke a direction under this section is exercisable,
 - (c) with respect to the procedure to be followed (including the publicity to be given) where a direction has been made or revoked,
 - (d) modifying section 67(2) in relation to any case where a direction under this section is in force at a time when a Local Commissioner is of the opinion mentioned there,
 - (e) modifying section 67(2A) in relation to any case where a direction under this section is in force at a time when the Public Services Ombudsman for Wales is of the opinion mentioned there.
- (7) The Standards Board for England may issue guidance in connection with—
- (a) this section or any regulations under this section, or
 - (b) any direction under this section.
- (8) In this section—
- “prescribed” means prescribed by regulations made by the Secretary of State,

“specified” means specified in the direction.

] ¹

Notes

¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Extent

Pt III c. II s. 57D(1)-(8) definition of "specified": England, Wales

Law In Force

[58 Allegations referred to Standards Board

(1) Where an allegation is referred to the Standards Board for England under section 57A(2), the Standards Board for England must–

- (a) refer the case to one of its ethical standards officers for investigation under section 59,
- (b) decide that no action should be taken in respect of the allegation, or
- (c) refer the allegation back to the standards committee of the relevant authority concerned.

(2) If the Standards Board for England decides that no action should be taken in respect of the allegation, it must take reasonable steps to give notice in writing of the decision and the reasons for the decision to–

- (a) the person who made the allegation, and
- (b) the person who was the subject of the allegation.

(3) On a reference back under subsection (1)(c), section 57A(2) to (4) again apply to the standards committee but as if section 57A(2)(b) were omitted.

(4) Subsection (3) is subject to any direction under section 57D.

] ¹

Notes

¹ Ss.57A-57D are inserted and s.58 is moved under a new heading entitled "Written allegations" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.185 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 ss 57C and 57D; May 8, 2008 subject to savings and transitional provisions as specified in SI 2008/1265 art.3 otherwise)

Extent

Pt III c. II s. 58(1)-(4): England, Wales

Functions of ethical standards officers.

☑ Law In Force

59.— Functions of ethical standards officers.

- (1) The functions of ethical standards officers are to investigate—
- (a) cases referred to them by the Standards Board for England under [section 58(1)]¹, and
 - (b) other cases in which any such officer considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in England has failed, or may have failed, to comply with the authority's code of conduct and which have come to the attention of any such officer as a result of an investigation under paragraph (a).
- (2) The Standards Board for England may make arrangements in relation to the assignment of investigations under this section to particular ethical standards officers.
- (3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.
- (4) Those findings are—
- (a) that there [has been no]² failure to comply with the code of conduct of the relevant authority concerned,
 - [(b) that there has been such a failure to comply but no action needs to be taken,]³
 - (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
 - (d) that the matters which are the subject of the investigation should be referred to the [First-tier Tribunal for adjudication.]⁴
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly an ethical standards officer who reaches a finding under subsection (4)(c) must decide to which of those monitoring officers to refer the matters concerned).

Notes

- ¹ Word substituted subject to savings specified in SI 2008/172 art.7(3) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.191(1)(a) (April 1, 2008: substitution has effect on April 1, 2008 as specified in SI 2008/172 art.7(2) subject to savings specified in art.7(3); not yet in force otherwise)
- ² Words substituted subject to savings specified in SI 2008/172 art.7(3) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.191(1)(b) (April 1, 2008: substitution has effect on April 1, 2008 as specified in SI 2008/172 art.7(2) subject to savings specified in art.7(3); not yet in force otherwise)
- ³ Substituted subject to savings specified in SI 2008/172 art.7(3) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.191(1)(c) (April 1, 2008: substitution has effect on April 1, 2008 as specified in SI 2008/172 art.7(2) subject to savings specified in art.7(3); not yet in force otherwise)
- ⁴ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.51 (January 18, 2010)

Commencement

Pt III c. II s. 59(1)-(5): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 59(1)-(5): England, Wales

Investigations [by ethical standards officers]¹

Notes

¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.191(2) (April 1, 2008 for purposes specified in SI 2008/172 art.7(2); not yet in force otherwise)

Law In Force

60.— Conduct of investigations.

- (1) An ethical standards officer may arrange for any person to assist him in the conduct of any investigation under section 59.
- (2) An ethical standards officer to whom an investigation under section 59 is assigned may—
 - (a) cease the investigation at any stage before its completion, and
 - (b) refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (3) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, an ethical standards officer may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (2)(b), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.
- (4) An ethical standards officer may not at any time conduct an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the ethical standards officer has been a member or an officer of the authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.
- (5) An ethical standards officer who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an investigation under section 59—
 - (a) must disclose the nature of his interest to the Standards Board for England, and
 - (b) may not take part in any investigation under that section which relates to that matter.
- (6) The validity of any acts of an ethical standards officer are not to be affected by any contravention of subsection (4) or (5) or paragraph 3(2) of Schedule 4 or any breach falling within paragraph 3(3) of that Schedule.

Commencement

Pt III c. II s. 60(1)-(6): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 60(1)-(6): England, Wales

Law In Force

61.— Procedure in respect of investigations.

- (1) The procedure for conducting an investigation under section 59 is to be such as the ethical standards officer considers appropriate in the circumstances of the case.
- (2) Without prejudice to subsection (1), the ethical standards officer must give any person who is the subject of an investigation under section 59 an opportunity to comment on any allegation that he has failed, or may have failed, to comply with the relevant authority concerned's code of conduct.
- (3) An ethical standards officer may, if he thinks fit, pay to persons who attend or furnish information for the purposes of an investigation under section 59—
 - (a) such sums in respect of the expenses properly incurred by them, and
 - (b) such allowances by way of compensation for the loss of their time,as may be determined by the Secretary of State.
- (4) The carrying out of an investigation under section 59 is not to affect—
 - (a) any action taken by the relevant authority concerned, or
 - (b) any power or duty of the relevant authority concerned to take further action with respect to any matters which are the subject of the investigation.
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, any reference in subsection (4) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

Commencement

Pt III c. II s. 61(1)-(5): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 61(1)-(5): England, Wales

Law In Force

62.— Investigations: further provisions.

- (1) An ethical standards officer, or a person authorised by such an officer, has a right of access at all reasonable times to every document [...] ¹ which appears to him necessary for the purpose of conducting an investigation under section 59 [...] ¹ .

- (2) An ethical standards officer, or a person authorised by such an officer, may—
- (a) make such inquiries of any person as he thinks necessary for the purpose of conducting such an investigation,
 - (b) require any person to give him such information or explanation as he thinks necessary for the purpose of conducting such an investigation, and
 - (c) if he thinks necessary, require any person to attend before him in person for the purpose of making inquiries of that person or requiring that person to give any information or explanation.
- (3) Without prejudice to subsections (1) and (2), a relevant authority must provide an ethical standards officer, or a person authorised by such an officer, with every facility and all information which he may reasonably require for the purposes of conducting an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of the authority.
- (4) An ethical standards officer, or a person authorised by such an officer, may under this section require any person—
- (a) to furnish information concerning communications between the authority concerned and any Government department, or
 - (b) to produce any correspondence or other documents forming part of any such communications.
- (5) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, is to apply to the disclosure of information in accordance with subsection (4).
- (6) Where subsection (4) applies, the Crown is not to be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (7) Nothing in this section affects—
- (a) the restriction, imposed by section 11(2) of the Parliamentary Commissioner Act 1967, on the disclosure of information by the Parliamentary Commissioner or his officers,
 - (b) the restriction, imposed by section 32(2) of the Local Government Act 1974, on the disclosure of information [obtained in connection with investigations under Part 3 of that Act (Commission for Local Administration in England)]² [...]³, or
 - (c) the restriction, imposed by section 15 of the Health Service Commissioners Act 1993, on the disclosure of information by the Health Service Commissioner for England [or by his officers]⁴ [, or]⁵
[(d) the restriction imposed by section 26 of the Public Services Ombudsman (Wales) Act 2005.]⁵
- (8) To assist him in any investigation under section 59, an ethical standards officer may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of the Secretary of State.
- (9) Subject to subsections (5) and (6), no person may be compelled for the purposes of an investigation under section 59 to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (10) A person who without reasonable excuse fails to comply with any requirement under subsection (2) or (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(11) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

Notes

- ¹ Words repealed subject to savings specified in SI 2008/172 art.2(2) by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(15) para.1 (January 31, 2008: repeal has effect on January 31, 2008 as specified in SI 2008/172 art.2(1)(u)(ii) subject to savings specified in art.2(2))
- ² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.12(2) para.17(2) (April 1, 2008)
- ³ Words repealed by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.7 para.1 (April 1, 2006 as SI 2005/2800)
- ⁴ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.5(b) (April 1, 2006)
- ⁵ Added by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.5(c) (April 1, 2006)

Commencement

Pt III c. II s. 62(1)-(11): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 62(1)-(11): England, Wales

Law In Force

63.— Restrictions on disclosure of information.

(1) Information obtained by ethical standards officers under section 61 or 62 must not be disclosed unless one or more of the following conditions is satisfied—

- (a) the disclosure is made for the purposes of enabling the Standards Board for England, an ethical standards officer, [the Public Services Ombudsman for Wales]¹, a Local Commissioner in Wales [, the First-tier Tribunal or the president, deputy president or any tribunal of the Adjudication Panel for Wales]² to perform their functions under this Part,
- (b) the person to whom the information relates has consented to its disclosure,
- (c) the information has previously been disclosed to the public with lawful authority,
- (d) the disclosure is for the purposes of criminal proceedings in any part of the United Kingdom and the information in question was not obtained under section 62 (2),
- (e) the disclosure is made to the Audit Commission for the purposes of any functions of the Audit Commission or an auditor under the Audit Commission Act 1998 [,]³
- [(f) the disclosure is made to the Auditor General for Wales for the purposes of any functions of the Auditor General for Wales or an auditor under Part 2 of the Public Audit (Wales) Act 2004 [,]⁴]³
- [(g) the disclosure is made for the purposes of enabling the monitoring officer of a relevant authority to perform functions conferred on him by or under this Part,
- (h) the disclosure is made to the Commission for Local Administration in England for the purposes of any of its functions,
- (i) the disclosure is made to the Electoral Commission for the purposes of any of its functions,
- (j) the disclosure is made to any person specified in an order made by the Secretary of State for the purposes of this paragraph, for purposes so specified.]⁴

(2) The Secretary of State or a relevant authority in England may give notice in writing to any ethical standards officer with respect to—

- (a) any document or information specified in the notice, or
- (b) any class of documents or information so specified,

that, in his or (as the case may be) their opinion, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest.

(3) Where notice is given under subsection (2) to an ethical standards officer, any document or information specified in the notice, or any document or information of a class so specified, may not be disclosed by the ethical standards officer or any other person.

(4) A person who discloses information or a document in contravention of subsection (1) is guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months, or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Notes

- ¹ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.6 (April 1, 2006)
- ² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.52 (January 18, 2010)
- ³ Added by Public Audit (Wales) Act 2004 c. 23 Sch.2 para.54 (April 1, 2005)
- ⁴ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.191(4) (April 1, 2008 for purposes specified in SI 2008/172 art.7(2); not yet in force otherwise)

Commencement

Pt III c. II s. 63(1)-(4)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 63(1)-(4)(b): England, Wales

Reports etc. [by ethical standards officers]¹

Notes

- ¹ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(1) (January 31, 2008)
-

Law In Force

64.— Reports etc.

(1) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(a) or (b) is appropriate—

- (a) he may produce a report on the outcome of his investigation,
- (b) he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,

- (c) he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
 - (d) where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(c) is appropriate he must–
- (a) produce a report on the outcome of his investigation,
 - (b) subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
 - (c) send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.
- (3) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(d) is appropriate he must–
- (a) produce a report on the outcome of his investigation,
 - (b) refer the matters which are the subject of the investigation to the [First-tier Tribunal for adjudication,]¹ and
 - (c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the [First-tier Tribunal]² .
- [(3A) Where an ethical standards officer produces a report under subsection (1) or (3), he may send a copy of it to the standards committee of the relevant authority concerned if he believes that it will assist that committee in the discharge of its functions under this Part.]³
- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England–
- (a) the references in subsections (1)(b), (c) and (d), (2)(c) [, (3)(c) and (3A)]⁴ to the relevant authority concerned are to be treated as including references to that other relevant authority, and
 - (b) an ethical standards officer who reaches a finding under section 59(4)(c) must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.
- (5) A report under this section may cover more than one investigation under section 59 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (6) An ethical standards officer must–
- (a) inform any person who is the subject of an investigation under section 59, and
 - (b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,
- of the outcome of the investigation.

[(7) The Secretary of State may by regulations make provision for or in connection with the withdrawal of a reference under subsection (3)(b).]⁵

Notes

¹ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.53(a) (January 18, 2010)

² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.53(b) (January 18, 2010)

- ³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(3) (January 31, 2008)
- ⁴ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(4) (January 31, 2008)
- ⁵ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(5) (January 31, 2008)

Commencement

Pt III c. II s. 64(1)-(6)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 64(1)-(7): England, Wales

Law In Force

65.— Interim reports.

(1) Where he considers it necessary in the public interest, an ethical standards officer may, before the completion of an investigation under section 59, produce an interim report on that investigation.

(2) An interim report under this section may cover more than one investigation under section 59 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.

(3) Where the prima facie evidence is such that it appears to the ethical standards officer producing the interim report—

(a) that the person who is the subject of the report has failed to comply with the code of conduct of the relevant authority concerned,

(b) that the nature of that failure is such as to be likely to lead to disqualification under [section 78A]¹, and

(c) that it is in the public interest to suspend or partially suspend that person immediately, the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

(4) Where an ethical standards officer produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the [First-tier Tribunal for adjudication.]²

[(4A) The Secretary of State may by regulations make provision for or in connection with the withdrawal of a reference under subsection (4).]³

(5) A copy of any report under this section must be given—

(a) to any person who is the subject of the report,

(b) to the monitoring officer of the relevant authority concerned, and

(c) to the [First-tier Tribunal]⁴.

[(5A) A copy of any report under this section may be given to the standards committee of the relevant authority concerned if the ethical standards officer believes that it will assist that committee in the discharge of its functions under this Part.]⁵

(6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England—

- (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
- (b) [any reference in subsection (5)(b) or (5A)]⁶ to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

(7) In this Part “partially suspended” and cognate expressions are to be construed in accordance with section 83(7) and (8).

Notes

- ¹ Word substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(7) (December 12, 2008)
- ² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.54(a) (January 18, 2010)
- ³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(8) (January 31, 2008)
- ⁴ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.54(b) (January 18, 2010)
- ⁵ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(9) (January 31, 2008)
- ⁶ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.192(10) (January 31, 2008)

Commencement

Pt III c. II s. 65(1)-(7): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 65(1)-(7): England, Wales

Law In Force

[65A Disclosure by monitoring officers of ethical standards officers' reports

(1) Where by virtue of section 64(1)(c) or (d) the monitoring officer of a relevant authority—

- (a) receives a copy of a report on the outcome of an investigation, or
- (b) is informed of the outcome of an investigation,

he may inform any relevant person of the outcome of the investigation.

(2) Where by virtue of section 64(1)(c) or 65(5) the monitoring officer of a relevant authority receives a copy of a report, he may send a copy of it or of any part of it to any relevant person; but this is subject to subsection (3).

(3) A monitoring officer may exercise a power under subsection (2) only where he believes that it will assist in promoting high standards of conduct by the members and co-opted members of the relevant authority.

(4) In this section “relevant person” means—

- (a) any member or co-opted member of the relevant authority;
- (b) any officer of that authority;
- (c) where that authority has an executive, any member of the executive.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.193(1) (January 31, 2008)

Extent

Pt III c. II s. 65A(1)-(4)(c): England, Wales

References to monitoring officers

Law In Force

66.— Matters referred to monitoring officers.

(1) The Secretary of State may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under [57A, 60(2) or (3) or 64(2) or (4)] ¹ are to be dealt with.

(2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—

- (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
- (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
- (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
- (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
- (e) the publicity to be given to any such reports, recommendations or action [,] ²
- [(f) enabling a monitoring officer of a relevant authority, in such circumstances as may be prescribed by the regulations, to refer back any matters that were referred to him under section 57A.] ²

(3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—

- (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
- (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.

[(3A) Provision made by virtue of subsection (2)(a) and (3) may make provision corresponding to or applying, with or without modifications, any provisions of sections 62 and 63 (including sections 62(10) and 63(4)) or section 67(1), (1A) and (3) to (5).

(3B) The provision which may be made by virtue of subsection (2)(b) includes provision for or in connection with—

- (a) interim reports;
- (b) the disclosure of reports.

] ³

(4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—

- (a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,
- (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
- (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.

[(4A) The provision which may be made by virtue of subsection (2)(f) includes provision applying any provisions of section 57A or 57C, with or without modifications, where matters have been referred back by the monitoring officer.] ⁴

(5) Nothing in subsection [subsections (2) to (4A) or section 66A] ⁵ affects the generality of the power under subsection (1).

(6) [A person who refers any matters to the monitoring officer of a relevant authority under section 57A, 60(2) or (3) or 64(2) or (4),] ⁶ may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

Notes

¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(2) (January 31, 2008)

² Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(3) (January 31, 2008)

³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(4) (January 31, 2008)

⁴ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(5) (January 31, 2008)

⁵ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(6) (January 31, 2008)

⁶ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(7) (January 31, 2008)

Commencement

Pt III c. II s. 66(1)-(6): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 66(1)-(6): England, Wales

✔ Law In Force

[66A References to [First-tier Tribunal]² for action in respect of misconduct

(1) The provision which may be made by regulations under section 66 by virtue of subsection (2)(d) of that section also includes provision for or in connection with—

(a) enabling a standards committee, where it considers that the action it could take against a person is insufficient, to refer the case to the [First-tier Tribunal for a decision]³ on the action that should be taken against the person,

(b) [...] ⁴

(c) enabling [the First-tier Tribunal]⁵ to decide what action, of a kind authorised by the regulations, should be taken against the person and enabling [the tribunal]⁶ to take that action,

(d)-(e) [...] ⁷

(2) The kinds of action that may be authorised by virtue of subsection (1)(c) include any kinds of action that may be authorised in relation to [the First-tier Tribunal]⁸ by regulations under section 78A(4) to (6).

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.195 (January 31, 2008)

² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(a) (January 18, 2010)

³ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(b)(i) (January 18, 2010)

⁴ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(b)(ii) (January 18, 2010)

⁵ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(b)(iii)(aa) (January 18, 2010)

⁶ Word substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(b)(iii)(bb) (January 18, 2010)

⁷ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(b)(iv) (January 18, 2010)

⁸ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.55(c) (January 18, 2010)

Extent

Pt III c. II s. 66A(1)-(2): England, Wales

✔ Law In Force

67.—

[Existing s.67 is not repealed but has been moved under a new heading entitled “Consultation with Ombudsmen”] ¹

Notes

¹ Existing s.67 is moved under a new heading entitled "Consultation with ombudsmen" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.196(1) (April 1, 2008)

Commencement

Pt III c. II s. 67(1)-(5): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. II s. 67(1)-(5): England, Wales

*[Information to be provided to Standards Board by relevant authority]¹***Notes**¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.186 (May 8, 2008)

Law In Force

[66B Periodic returns

(1) A relevant authority in England must send to the Standards Board, within such period beginning with the end of each relevant period as the Standards Board may direct, a return containing the required information.

(2) In subsection (1) “relevant period” means such period as the Standards Board may direct.

(3) In subsection (1) “the required information” means such information relating to—

- (a) allegations under section 57A received by the standards committee of the authority during the relevant period,
- (b) requests under section 57B so received,
- (c) the exercise during that period of any functions conferred by or under this Part on the standards committee, or
- (d) the exercise during that period of any functions conferred by or under this Part on the monitoring officer of the authority,

as the Standards Board may direct.

(4) Section 57D(5) (meaning of “received”) applies for the purposes of subsection (3)(a).

(5) A return under subsection (1) must be in such form as the Standards Board may direct.

(6) Different directions under this section may be given in relation to different relevant authorities or different descriptions of relevant authority.

(7) A direction may specify different periods under subsection (2), and may make different provision under subsection (1), (3) or (5) in relation to returns relating to different periods.

(8) Any direction under this section may be varied or revoked by a subsequent direction of the Standards Board.

(9) In this section and section 66C—

- (a) references to a relevant authority in England do not include a parish council,
- (b) “the Standards Board” means the Standards Board for England.

] ¹**Notes**¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.186 (May 8, 2008)

Extent

Pt III c. II s. 66B(1)-(9)(b): England, Wales

Law In Force

[66C Information requests

(1) If the Standards Board requests a relevant authority in England to provide information within subsection (2), the authority must comply with the request by such date as the Standards Board may specify.

(2) Information is within this subsection if it is specified in the request and it relates to the exercise of functions conferred by or under this Part on—

- (a) the standards committee of the relevant authority, or
- (b) the monitoring officer of the relevant authority.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.186 (May 8, 2008)

Extent

Pt III c. II s. 66C(1)-(2)(b): England, Wales

*[Consultation with ombudsmen]*¹**Notes**

¹ Existing s.67 is moved under a new heading entitled "Consultation with ombudsmen" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.196(1) (April 1, 2008)

Law In Force

[67.— Consultation with ombudsmen.

(1) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part III of the Local Government Act 1974, he may consult the appropriate Local Commissioner about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part III of that Act.

(1A) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005, he may consult the Public Services Ombudsman for Wales about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part 2 of that Act.

(2) If, at any stage in the course of conducting an investigation under Part III of the Local Government Act 1974, a Local Commissioner forms the opinion that [the matters which are the subject of the investigation relate]² partly to a matter which could be the subject of an investigation under section 59 of this Act [or regulations under section 66 of this Act]³, he may consult the Standards Board for England [or the standards committee of the relevant authority concerned]⁴ about the investigation and [, where a complaint was made about the matter, he may]⁵, if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under [section 57A]⁶.

(2A) If, at any stage in the course of conducting an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005, the Public Services Ombudsman for Wales forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under section 59 of this Act [or regulations under section 66 of this Act]³, he may consult the Standards Board for England [or the standards committee of the relevant authority concerned]⁴ about the investigation and, if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under [section 57A]⁶.

(3) Consultation under any of subsections (1) to (2A) may relate to any matter concerned with the investigation, including—

- (a) the conduct of the investigation, and
- (b) the form, content and publication of any report relating to the investigation.

(4) Nothing in section 32(2) of the Local Government Act 1974, section 26 of the Public Services Ombudsman (Wales) Act 2005 or section 63(1) of this Act shall apply in relation to the disclosure of information in the course of consultation held in accordance with this section.

(5) In this section “Local Commissioner” has the same meaning as in Part III of the Local Government Act 1974.

] ¹

Notes

- ¹ Existing s.67 is moved under a new heading entitled "Consultation with ombudsmen" by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.196(1) (April 1, 2008)
- ² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.12(2) para.17(3)(a) (April 1, 2008)
- ³ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.196(2)(a) (April 1, 2008)
- ⁴ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.196(2)(b) (April 1, 2008)
- ⁵ Words inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.12(2) para.17(3)(b) (April 1, 2008)
- ⁶ Word substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.196(2)(c) (April 1, 2008)

Extent

Pt III c. II s. 67(1)-(5): England, Wales

CHAPTER III
INVESTIGATIONS ETC: WALES

[Public Services Ombudsman for Wales]¹

Notes

¹ Heading substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.9 (April 1, 2006)

Law In Force

68.— [Public Services Ombudsman for Wales]¹ .

(1) [The Public Services Ombudsman for Wales]² is to have the functions conferred on him by this Part and such other functions as may be conferred on him by order made by the National Assembly for Wales under this subsection.

(2) [The Public Services Ombudsman for Wales]³ –

- (a) may issue guidance to relevant authorities in Wales (other than police authorities) on matters relating to the conduct of members and co-opted members of such authorities,
- (b) may issue guidance to relevant authorities in Wales (other than police authorities) in relation to the qualifications or experience which monitoring officers should possess, and
- (c) may arrange for any such guidance to be made public.

[(3) The National Assembly for Wales may by regulations make provision which, for the purpose of any provisions of the Public Services Ombudsman (Wales) Act 2005 specified in the regulations, treats–

- (a) functions of the Public Services Ombudsman for Wales under that Act as including his functions under this Part, or
- (b) expenses of the Public Services Ombudsman for Wales under that Act as including his expenses under this Part.

] ⁴

(4) The provision which may be made by virtue of subsection (3) includes provision which modifies, or applies or reproduces (with or without modifications), any provisions of [...] ⁵ that Act.

(5) [...] ⁶

Notes

¹ Heading substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.10 (April 1, 2006)

² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.11(a) (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))

³ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.11(b) (April 1, 2006)

⁴ Substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.11(c) (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))

⁵ Words repealed by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.11(d) (October 12, 2005: repeal has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))

⁶ Repealed by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.11(e) (October 12, 2005: repeal has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))

Commencement

Pt III c. III s. 68(1)-(2)(c): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Pt III c. III s. 68(3)-(5): November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2948 art. 2)

Extent

Pt III c. III s. 68(1)-(5): England, Wales

Investigations

✔ Law In Force

69.— [Investigations by the Public Services Ombudsman for Wales]¹ .

(1) [The Public Services Ombudsman for Wales]² may investigate—

- (a) cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority's code of conduct, and
- (b) other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority's code of conduct and which have come to his attention as a result of an investigation under paragraph (a).

(2) If [the Public Services Ombudsman for Wales]³ considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.

(3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.

(4) Those findings are—

- (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,
- (b) that no action needs to be taken in respect of the matters which are the subject of the investigation,
- (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
- (d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1).

(5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly [if the Public Services Ombudsman for Wales reaches a finding under subsection (4)(c) he]⁴ must decide to which of those monitoring officers to refer the matters concerned).

Notes

- ¹ Heading substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.12 (April 1, 2006)
- ² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.13(a) (April 1, 2006)
- ³ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.13(b) (April 1, 2006)
- ⁴ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.13(c) (April 1, 2006)

Commencement

Pt III c. III s. 69(1)-(5): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. III s. 69(1)-(5): England, Wales

Law In Force

70.— Investigations: further provisions.

(1) The National Assembly for Wales may by order make provision with respect to investigations under section 69 (including provision with respect to the obtaining or disclosure of documents or information).

(2) The provision which may be made by virtue of subsection (1) includes provision which applies or reproduces (with or without modifications)—

(a) any provisions of sections 60 to 63, or

[(b) any provisions of sections 13 to 15, 25 to 27 and 32 of the Public Services Ombudsman (Wales) Act 2005.]¹

(3) [The Public Services Ombudsman for Wales]² may cease an investigation under section 69 at any stage before its completion.

(4) Where [the Public Services Ombudsman for Wales]³ ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.

(5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, [the Public Services Ombudsman for Wales]³ may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.

Notes

- ¹ Substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.14(a) (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))
- ² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.14(b) (April 1, 2006)
- ³ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.14(c) (April 1, 2006)

Commencement

Pt III c. III s. 70(1)-(2)(b): November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2948 art. 2)

Pt III c. III s. 70(3)-(5): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. III s. 70(1)-(5): England, Wales

Reports etc.

✔ Law In Force

71— Reports etc.

- (1) Where [the Public Services Ombudsman for Wales]¹ determines in relation to any case that a finding under section 69(4)(a) or (b) is appropriate—
- (a) he may produce a report on the outcome of his investigation,
 - (b) he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,
 - (c) he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
 - (d) where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where [the Public Services Ombudsman for Wales]¹ determines in relation to any case that a finding under section 69(4)(c) is appropriate he must—
- (a) produce a report on the outcome of his investigation,
 - (b) subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
 - (c) send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.
- (3) Where [the Public Services Ombudsman for Wales]¹ determines in relation to any case that a finding under section 69(4)(d) is appropriate he must—
- (a) produce a report on the outcome of his investigation,
 - (b) refer the matters which are the subject of the investigation to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1), and
 - (c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for Wales.
- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—
- (a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and
 - (b) [if the Public Services Ombudsman for Wales reaches a finding under section 69(4)(c) he]² must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.

(5) A report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.

(6) [The Public Services Ombudsman for Wales]³ must—

(a) inform any person who is the subject of an investigation under section 69, and

(b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,

of the outcome of the investigation.

Notes

¹ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.15(a) (April 1, 2006)

² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.15(b) (April 1, 2006)

³ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.15(c) (April 1, 2006)

Commencement

Pt III c. III s. 71(1)-(6)(b): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. III s. 71(1)-(6)(b): England, Wales

Law In Force

72.— Interim reports.

(1) Where he considers it necessary in the public interest, [the Public Services Ombudsman for Wales]¹ may, before the completion of an investigation under section 69, produce an interim report on that investigation.

(2) An interim report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.

(3) Where the *prima facie* evidence is such that it appears to [the Public Services Ombudsman for Wales]¹ —

(a) that the person who is the subject of the interim report has failed to comply with the code of conduct of the relevant authority concerned,

(b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and

(c) that it is in the public interest to suspend or partially suspend that person immediately, the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

(4) Where [the Public Services Ombudsman for Wales]¹ produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(2).

(5) A copy of any report under this section must be given—

- (a) to any person who is the subject of the report,
- (b) to the monitoring officer of the relevant authority concerned, and
- (c) to the president of the Adjudication Panel for Wales.

(6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—

- (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
- (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

Notes

¹ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.16 (April 1, 2006)

Commencement

Pt III c. III s. 72(1)-(6)(b): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. III s. 72(1)-(6)(b): England, Wales

References to monitoring officers

Law In Force

73.— Matters referred to monitoring officers.

(1) The National Assembly for Wales may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under [70(4) or (5) or 71(2) or (4)]¹ are to be dealt with.

(2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—

- (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
- (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
- (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
- (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
- (e) the publicity to be given to any such reports, recommendations or action.

(3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—

- (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
- (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.
- (4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—
- (a) enabling a standards committee of a relevant authority to ensure a member or co-opted member (or former member or co-opted member) of the authority,
- (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
- (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).
- (6) In its application to police authorities in Wales, subsection (1) has effect as if for the reference to the National Assembly for Wales there were substituted a reference to the Secretary of State.
- (7) Where [the Public Services Ombudsman for Wales]² refers any matters to the monitoring officer of a relevant authority under [70(4) or (5) or 71(2) or (4)]¹ he may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

Notes

- ¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(8) (January 31, 2008)
- ² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.17 (April 1, 2006)

Commencement

Pt III c. III s. 73(1)-(6): November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2948 art. 2)

Pt III c. III s. 73(7): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. III s. 73(1)-(7): England, Wales

Law In Force

74. Law of defamation.

For the purposes of the law of defamation, any statement (whether written or oral) made by [the Public Services Ombudsman for Wales]¹ in connection with the exercise of his functions under this Part shall be absolutely privileged.

Notes

- ¹ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.18 (April 1, 2006)

Commencement

Pt III c. III s. 74: July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt III c. III s. 74: England, Wales

CHAPTER IV
ADJUDICATIONS

[The Adjudication Panel for Wales]¹

Notes

¹ Heading substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.56 (January 18, 2010)

Law In Force

75.— [Adjudication Panel for Wales]¹

(1) [...] ²

(2) There is to be a panel of persons, known as the Adjudication Panel for Wales or Panel Dyfarnu Cymru, eligible for membership of tribunals drawn from the Panel.

(3)-(4) [...] ²

(5) The members of the Adjudication Panel for Wales are to be appointed by the National Assembly for Wales on such terms and conditions as it may determine.

(6) The National Assembly for Wales—

(a) must appoint one of the members of the Adjudication Panel for Wales as president of the Panel, and

(b) may appoint one of those members as deputy president of the Panel.

(7) [...] ²

(8) Such members of the Adjudication Panel for Wales as the National Assembly for Wales thinks fit must possess such qualifications as may be determined by the National Assembly for Wales.

(9) [...] ²

(10) The president and deputy president (if any) of the Adjudication Panel for Wales are to be responsible—

(a) for training the members of the Panel,

(b) for issuing guidance on how tribunals drawn from the Panel are to reach decisions.

(11) [...] ²

Notes

¹ Heading substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.57(a) (January 18, 2010)

² Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.57(b) (January 18, 2010)

Commencement

Pt III c. IV s. 75(1), (3)-(4)(b), (7), (9)-(11): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. IV s. 75(2), (5)-(6)(b), (8): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. IV s. 75(1)-(11): England, Wales

Case tribunals and interim case tribunals

✔ Law In Force

76.— Case tribunals and interim case tribunals.

(1) Adjudications in respect of matters referred to the president of the [Adjudication Panel for Wales]¹ under [section 71(3)]² are to be conducted by tribunals (referred to in this Part as case tribunals) consisting of not less than three members of the Panel.

(2) Adjudications in respect of matters referred to the president of the [Adjudication Panel for Wales]³ under [section 72(4)]⁴ are to be conducted by tribunals (referred to in this Part as interim case tribunals) consisting of not less than three members of the Panel.

(3) The president of the [Adjudication Panel for Wales]⁵ (or in his absence the deputy president) is to appoint the members of any case tribunal or interim case tribunal.

(4) A case tribunal drawn from the [Adjudication Panel for Wales]⁶ may conduct a single adjudication in relation to two or more matters which are referred to the president of the Panel under [section 71(3)]⁷.

(5) An interim case tribunal drawn from the [Adjudication Panel for Wales]⁸ may conduct a single adjudication in relation to two or more matters which are referred to the president of the Panel under [section 72(4)]⁹.

(6) The president or the deputy president of the [Adjudication Panel for Wales]¹⁰ may be a member of a case tribunal or interim case tribunal drawn from the Panel.

(7) A member of the [Adjudication Panel for Wales]¹⁰ may not at any time be a member of a case tribunal or interim case tribunal drawn from the Panel which is to adjudicate on a matter relating to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the member of the Panel has been a member or an officer of the authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.

(8) A member of the [Adjudication Panel for Wales]¹⁰ who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an adjudication conducted by a case tribunal or interim case tribunal—

- (a) must disclose the nature of his interest to the president or deputy president of that Panel, and

(b) may not be a member of a case tribunal or interim case tribunal which conducts an adjudication in relation to that matter.

(9) Where there is no deputy president of the [Adjudication Panel for Wales]¹¹ , the reference in subsection (3) and (8) to the deputy president is to be treated as a reference to such member of the Panel as [...]¹² the National Assembly for Wales may specify.

(9A) [...]¹³

(10) A person who is a member of an interim case tribunal which, as a result of an investigation under [section 69]¹⁴ , conducts an adjudication in relation to any person may not be a member of a case tribunal which, on the conclusion of that investigation, subsequently conducts an adjudication in relation to that person.

(11)-(12) [...]¹⁵

(13) The National Assembly for Wales may issue guidance with respect to the composition of case tribunals or interim case tribunals drawn from the Adjudication Panel for Wales.

(14) The National Assembly for Wales may incur expenditure for the purpose of providing administrative support to the Adjudication Panel for Wales.

(15) [...]¹⁵

Notes

- ¹ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(a)(i) (January 18, 2010)
- ² Words repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(a)(ii) (January 18, 2010)
- ³ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(b)(i) (January 18, 2010)
- ⁴ Words repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(b)(ii) (January 18, 2010)
- ⁵ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(c) (January 18, 2010)
- ⁶ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(d)(i) (January 18, 2010)
- ⁷ Words repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(d)(ii) (January 18, 2010)
- ⁸ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(e)(i) (January 18, 2010)
- ⁹ Words repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(e)(ii) (January 18, 2010)
- ¹⁰ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(f) (January 18, 2010)
- ¹¹ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(g)(i) (January 18, 2010)
- ¹² Words repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(g)(ii) (January 18, 2010)
- ¹³ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(h) (January 18, 2010)
- ¹⁴ Words repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(i) (January 18, 2010)
- ¹⁵ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.58(j) (January 18, 2010)

Commencement

Pt III c. IV s. 76(1)-(12), (14): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. IV s. 76(13): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. IV s. 76(1)-(15): England, Wales

Adjudications

☑ Law In Force

77.— Adjudications.

(1) A person who is the subject of an adjudication conducted by a case tribunal or interim case tribunal may appear before the tribunal in person or be represented by—

- (a) counsel or a solicitor, or
- (b) any other person whom he desires to represent him.

(2)-(3) [...] ¹

(4) The National Assembly for Wales may by regulations make such provision as appears to it to be necessary or expedient with respect to adjudications by case tribunals or interim case tribunals drawn from the Adjudication Panel for Wales.

(5) The president of the Adjudication Panel for Wales may, after consultation with the National Assembly for Wales, give directions as to the practice and procedure to be followed by tribunals drawn from the Panel.

(6) Regulations under this section may, in particular, include provision—

- (a) for requiring persons to attend adjudications to give evidence and produce documents and for authorising the administration of oaths to witnesses,
- (b) for requiring persons to furnish further particulars,
- (c) for prescribing the procedure to be followed in adjudications, including provision as to the persons entitled to appear and to be heard on behalf of persons giving evidence,
- (d) for the award of costs or expenses (including provision with respect to interest and provision with respect to the enforcement of any such award),
- (e) for taxing or otherwise settling any such costs or expenses (and for enabling such costs to be taxed in a county court),
- (f) for the registration and proof of decisions and awards of tribunals.

(7) A person who without reasonable excuse fails to comply with any requirement imposed by virtue of subsection (6)(a) or (b) [, or with any corresponding requirement imposed by Tribunal Procedure Rules in relation to proceedings under this Act before the First-tier Tribunal,] ² is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(8) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

Notes

¹ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.59(a) (January 18, 2010)

² Words inserted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.59(b) (January 18, 2010)

Commencement

Pt III c. IV s. 77(1)-(3), (5), (7)-(8): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. IV s. 77(4), (6)-(6)(f): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

ExtentPt III c. IV s. 77(1)-(8): England, Wales

 Law In Force**78.— Decisions of [the First-tier Tribunal or]¹ interim case tribunals.**

(1) [In adjudicating on any of the matters which are the subject of an interim report, the First-tier Tribunal or an interim case tribunal]² must reach one of the following decisions—

- (a) that the person to whom the recommendation mentioned in section 65(3) or 72(3) relates should not be suspended or partially suspended from being a member or co-opted member of the relevant [relevant authority concerned]³ ,
- (b) that that person should be suspended or partially suspended from being a member or co-opted member of the authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

[(2) If the decision of [the tribunal concerned]⁵ is as mentioned in subsection (1)(a), the tribunal must give notice of its decision to the standards committee of the relevant authority concerned.

(3) If the decision of [the tribunal concerned]⁵ is as mentioned in subsection (1)(b), the tribunal must give notice to the standards committee of the relevant authority concerned stating that the person concerned is suspended or partially suspended for the period, and in the way, that the tribunal has decided.

(3A) The effect of a notice given under subsection (3) is to suspend or partially suspend the person concerned as mentioned in subsection (3).]⁴

(4) A decision of [the First-tier Tribunal]⁶ under this section shall not prevent an ethical standards officer from continuing with the investigation under section 59 which gave rise to the interim report concerned and producing a report under section 64, or a further interim report under section 65, in respect of any matters which are the subject of the investigation.

(5) A decision of an interim case tribunal under this section shall not prevent [the Public Services Ombudsman for Wales]⁷ from continuing with the investigation under section 69 which gave rise to the interim report concerned and producing a report under section 71, or a further interim report under section 72, in respect of any matters which are the subject of the investigation.

(6) The suspension or partial suspension of any person under this section shall not extend beyond the day on which a notice [is given by virtue of section 78A or 79]⁸ to the standards committee of the relevant authority concerned with respect to that person.

- (7) A copy of any notice under this section must be given—
- (a) to any person who is the subject of the notice, and
 - (b) to the monitoring officer of the relevant authority concerned.

[(8) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority—

- (a) the references in subsection (1) to the relevant authority concerned are to be treated as references to that other authority,
- (b) the references in subsections (2) and (7)(b) to the relevant authority concerned are to be treated as including a reference to that other relevant authority,

(c) the duty under subsection (3) to give notice to the standards committee of the relevant authority concerned is to be treated as a duty—

- (i) to give that notice to the standards committee of that other relevant authority, and
- (ii) to give a copy of that notice to the standards committee of the relevant authority concerned.

(8A) Subsection (8) does not apply unless—

- (a) where the relevant authority concerned is in England, the other relevant authority is also in England,
- (b) where the relevant authority concerned is in Wales, the other relevant authority is also in Wales.

] ⁹

(9) [The First-tier Tribunal or (as the case may be) an] ¹⁰ interim case tribunal must take reasonable steps to inform any person who made any allegation which gave rise to the investigation under section 59 or 69 of its decision under this section.

[(9A) Where a person is suspended or partially suspended under this section by a decision of the First-tier Tribunal, the person may appeal to the Upper Tribunal—

- (a) against the suspension or partial suspension; or
- (b) against the length of the suspension or partial suspension,

(unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007).

(9B) An appeal may not be brought under subsection (9A) on a point of law (as to which see instead section 11 of the Tribunals, Courts and Enforcement Act 2007).

(9C) An appeal may be brought under subsection (9A) only if, on an application made by the person concerned, the First-tier Tribunal or Upper Tribunal has given its permission for the appeal to be brought.

(9D) In any case where the Upper Tribunal is determining an appeal under subsection (9A), section 12(2) to (4) of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) apply.] ¹¹

(10) [Where a person is suspended or partially suspended under this section by a decision of an interim case tribunal, the person] ¹² may appeal to the High Court—

- (a) against the suspension or partial suspension, or
- (b) against the length of the suspension or partial suspension.

[(11) An appeal may not be brought under subsection (10) except with the leave of the High Court.] ¹³

Notes

¹ Words inserted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(a) (January 18, 2010)

² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(b) (January 18, 2010)

³ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.197(2) (December 12, 2008)

⁴ S.78(2)-(3A) substituted for s.78(2)-(3) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.197(3) (December 12, 2008)

⁵ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(c) (January 18, 2010)

- ⁶ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(d) (January 18, 2010)
- ⁷ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.19 (April 1, 2006)
- ⁸ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.197(4) (December 12, 2008)
- ⁹ S.78(8)-(8A) substituted for s.78(8) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.197(5) (December 12, 2008)
- ¹⁰ Words inserted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(e) (January 18, 2010)
- ¹¹ Added by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(f) (January 18, 2010)
- ¹² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.60(g) (January 18, 2010)
- ¹³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.197(6) (December 12, 2008)

Commencement

Pt III c. IV s. 78(1)-(10)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. IV s. 78(1)-(11): England, Wales

Law In Force

[78A Decisions of [First-tier Tribunal]²

(1) [...] ³

(2) [Where the First-tier Tribunal adjudicates on any matter under this Act, it] ⁴ must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.

(3) Where [the tribunal] ⁵ decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.

(4) Where [the tribunal] ⁵ decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it may—

- (a) take in respect of him any action authorised by regulations made by the Secretary of State for the purposes of this subsection, or
- (b) decide to take no action against him.

(5) Regulations made under subsection (4) may in particular—

- (a) enable the tribunal to censure the person,
- (b) enable it to suspend, or partially suspend, the person from being a member or co-opted member of the relevant authority concerned for a limited period,
- (c) enable it to disqualify the person, for a period not exceeding five years, for being or becoming (whether by election or otherwise) a member of that or any other relevant authority.

(6) The reference in subsection (5)(b) to the relevant authority concerned is to be read, in relation to a person who is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, as a reference to that other relevant authority.

(7) Regulations made by the Secretary of State may require [the First-tier Tribunal]⁶ to give a notice to the standards committee of the relevant authority concerned where it decides that a person has failed to comply with the code of conduct of that authority and–

- (a) decides to suspend or partially suspend the person,
- (b) decides to disqualify the person,
- (c) decides to take action against the person other than suspension, partial suspension or disqualification, or
- (d) decides to take no action against him.

(8) Regulations under subsection (7) may–

- (a) prescribe the content of any notice,
- (b) provide for the effect that any notice is to have,
- (c) provide for provisions of the regulations to have effect with prescribed modifications where the person concerned is no longer a member or co-opted member of the relevant authority concerned, but is a member or co-opted member of another relevant authority in England.

] ¹

Notes

- ¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.198 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 s.78A(4) or (7); December 12, 2008 otherwise)
- ² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.61(a) (January 18, 2010)
- ³ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.61(b) (January 18, 2010)
- ⁴ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.61(c) (January 18, 2010)
- ⁵ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.61(d) (January 18, 2010)
- ⁶ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.61(e) (January 18, 2010)

Extent

Pt III c. IV s. 78A(1)-(8)(c): England, Wales

Law In Force

[78B [Section 78A:] ² supplementary

(1) A copy of any notice given under section 78A(3) or under regulations made under section 78A(7)–

- (a) must be given to the Standards Board for England,
- (b) must be given to any person who is the subject of the decision to which the notice relates, and
- (c) must be published in one or more newspapers circulating in the area of the relevant authority concerned.

(2) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned but is a member or coopted member of another relevant authority in England, the following references to the relevant authority concerned are to be treated as including references to that other relevant authority–

- (a) the second reference in section 78A(3);
- (b) the reference in subsection (1)(c) above.

(3) Where [the First-tier Tribunal adjudicates on any matter under this Act]³, it must take reasonable steps to give notice of its decision to any person who made any allegation which gave rise to the adjudication.

(4) Where [the First-tier Tribunal]⁴ decides under section 78A that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal to [the Upper Tribunal]⁵ against that decision, or any other decision made by the tribunal by virtue of section 78A which relates to him [(unless the decision is set aside under section 9 of the Tribunals, Courts and Enforcement Act 2007)]⁶.

[(5) An appeal may not be brought under subsection (4) on a point of law (as to which see instead section 11 of the Tribunals, Courts and Enforcement Act 2007).

(6) An appeal may be brought under subsection (4) only if, on an application made by the person concerned, the First-tier Tribunal or Upper Tribunal has given its permission for the appeal to be brought.

(7) In any case where the Upper Tribunal is determining an appeal under subsection (4), section 12(2) to (4) of the Tribunals, Courts and Enforcement Act 2007 (proceedings on appeal to the Upper Tribunal) apply.]⁷

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.198 (January 31, 2008 in relation to the power to make regulations under 2000 c.22 s.78A(4) or (7); December 12, 2008 otherwise)

² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.62(a) (January 18, 2010)

³ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.62(b) (January 18, 2010)

⁴ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.62(c)(i) (January 18, 2010)

⁵ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.62(c)(ii) (January 18, 2010)

⁶ Words inserted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.62(c)(iii) (January 18, 2010)

⁷ S.78B(5)-(7) substituted for s.78B(5) by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.62(d) (January 18, 2010)

Extent

Pt III c. IV s. 78B(1)-(7): England, Wales

Law In Force

79.— [Decisions of case tribunals: Wales]¹

[(A1) In this section “Welsh case tribunal” means a case tribunal drawn from the Adjudication Panel for Wales.]²

(1) A [Welsh case tribunal]³ which adjudicates on any matter must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.

(2) Where a [Welsh case tribunal]³ decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.

(3) Where a [Welsh case tribunal]³ decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it must decide whether the nature of the failure is such that the person should be suspended or disqualified in accordance with subsection (4).

(4) A person may be—

- (a) suspended or partially suspended from being a member or co-opted member of the relevant authority concerned, or
- (b) disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority.

(5) Where a [Welsh case tribunal]³ makes such a decision as is mentioned in subsection (4)(a), it must decide the period for which the person should be suspended or partially suspended (which must not exceed one year or, if shorter, the remainder of the person's term of office).

(6) Where a [Welsh case tribunal]³ makes such a decision as is mentioned in subsection (4)(b), it must decide the period for which the person should be disqualified (which must not exceed five years).

(7) Where a [Welsh case tribunal]³ decides that a person has failed to comply with the code of conduct of the relevant authority concerned but should not be suspended or disqualified as mentioned in subsection (4), it must give notice to the standards committee of the relevant authority concerned—

- (a) stating that the person has failed to comply with that code of conduct, and
- (b) specifying the details of that failure.

(8) Where a [Welsh case tribunal]³ decides that a person has failed to comply with the code of conduct of the relevant authority concerned and should be suspended or partially suspended as mentioned in subsection (4)(a), it must give notice to the standards committee of the relevant authority concerned—

- (a) stating that the person has failed to comply with that code of conduct,
- (b) specifying the details of that failure, and
- (c) stating that the person [is suspended or partially suspended]⁴ for the period, and in the way, which the tribunal has decided.

[(9) The effect of a notice given to the standards committee of a relevant authority under subsection (8) is to suspend or partially suspend the person concerned as mentioned in subsection (8)(c).]⁵

(10) Where a [Welsh case tribunal]³ decides that a person has failed to comply with the code of conduct of the relevant authority concerned and should be disqualified as mentioned in subsection (4)(b), it must give notice to the standards committee of the relevant authority concerned—

- (a) stating that the person has failed to comply with that code of conduct,
- (b) specifying the details of that failure, and
- (c) stating that the person is disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority for the period which the tribunal has decided.

(11) The effect of a notice given to the standards committee of a relevant authority under subsection (10) is to disqualify the person concerned as mentioned in subsection (10)(c).

(12) A copy of any notice under this section—

- [(a) must be given to the Public Services Ombudsman for Wales,]⁶
- (b) must be given to any person who is the subject of the decision to which the notice relates, and

(c) must be published in one or more newspapers circulating in the area of the relevant authority concerned.

(13) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in [Wales]⁷

—

(a) a copy of any notice under subsection (2), (7) or (10) must also be given to the standards committee of that other relevant authority,

[(b) the reference in subsection (4)(a) to the relevant authority concerned is to be treated as a reference to that other relevant authority,]⁸

(c) the duty to give notice to the standards committee of the relevant authority concerned under subsection (8) is to be treated as a duty—

(i) to give that notice to the standards committee of that other relevant authority, and

(ii) to give a copy of that notice to the standards committee of the relevant authority concerned,

(d) the reference in subsection (12)(c) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

(14) A [Welsh case tribunal]³ must take reasonable steps to inform any person who made any allegation which gave rise to the adjudication of the decision of the [Welsh case tribunal]³ under this section.

(15) Where a [Welsh case tribunal]³ decides under this section that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal to the High Court against that decision, or any other decision under this section which relates to him.

[(16) An appeal may not be brought under subsection (15) except with the leave of the High Court.]⁹

Notes

¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(2) (December 12, 2008)

² Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(3) (December 12, 2008)

³ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(4) (December 12, 2008)

⁴ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(5) (December 12, 2008)

⁵ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(6) (December 12, 2008)

⁶ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(7) (December 12, 2008)

⁷ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(8)(a) (December 12, 2008)

⁸ Substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(8)(b) (December 12, 2008)

⁹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.199(9) (December 12, 2008)

Commencement

Pt III c. IV s. 79(1)-(15): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. IV s. 79(A1)-(16): England, Wales

Law In Force

80.— Recommendations by [First-tier Tribunal or]¹ case tribunals.

(1) [Where the First-tier Tribunal or a case tribunal has adjudicated on any matter under this Act, it]² may make recommendations to a relevant authority about any matters relating to—

- (a) the exercise of the authority's functions,
- (b) the authority's code of conduct, or
- (c) the authority's standards committee.

(2) [The tribunal concerned]³ must send a copy of any recommendations it makes under subsection (1) to the relevant person.

(3) A relevant authority to whom recommendations are made under subsection (1) must consider the recommendations and, within a period of three months beginning with the day on which the recommendations are received, prepare a report for the relevant person giving details of what action the authority have taken or are proposing to take as a result of the recommendations.

(4) A relevant authority's function of considering a report under subsection (3) may be discharged only by the authority or by the standards committee of that authority (and accordingly, in the case of a relevant authority to which section 101 of the Local Government Act 1972 applies, is not to be a function to which that section applies).

(5) If the relevant person is not satisfied with the action the relevant authority have taken or propose to take in relation to the recommendations, the relevant person may require the authority to publish a statement giving details of the recommendations made by the tribunal and of the authority's reasons for not fully implementing the recommendations.

(6) In this section “the relevant person” means—

- (a) the Standards Board for England where the relevant authority concerned is in England,
- (b) [the Public Services Ombudsman for Wales]⁴ where the relevant authority concerned is in Wales.

Notes

¹ Words inserted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.63(a) (January 18, 2010)

² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.63(b) (January 18, 2010)

³ Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.63(c) (January 18, 2010)

⁴ Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.21 (April 1, 2006)

Commencement

Pt III c. IV s. 80(1)-(6)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. IV s. 80(1)-(6)(b): England, Wales

CHAPTER V**SUPPLEMENTARY***Disclosure and registration of members' interests etc.*

✔ Law In Force

81.— Disclosure and registration of members' interests etc.

- (1) The monitoring officer of each relevant authority must establish and maintain a register of interests of the members and co-opted members of the authority.
- (2) The mandatory provisions of the model code applicable to each relevant authority (“the mandatory provisions”) must require the members and co-opted members of each authority to register in that authority's register maintained under subsection (1) such financial and other interests as are specified in the mandatory provisions.
- (3) The mandatory provisions must also—
 - (a) require any member or co-opted member of a relevant authority who has an interest specified in the mandatory provisions under subsection (2) to disclose that interest before taking part in any business of the authority relating to that interest,
 - (b) make provision for preventing or restricting the participation of a member or co-opted member of a relevant authority in any business of the authority to which an interest disclosed under paragraph (a) relates.
- (4) Any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority's code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority's standards committee in accordance with regulations made under subsection (5).
- (5) The Secretary of State may prescribe in regulations the circumstances in which standards committees may grant dispensations under subsection (4).
- (6) A relevant authority must ensure that copies of the register for the time being maintained by their monitoring officer under this section are available at an office of the authority for inspection by members of the public at all reasonable hours.
- (7) As soon as practicable after the establishment by their monitoring officer of a register under this section, a relevant authority must—
 - (a) publish in one or more newspapers circulating in their area a notice which—
 - (i) states that copies of the register are available at an office of the authority for inspection by members of the public at all reasonable hours, and
 - (ii) specifies the address of that office, [...] ¹
 - (b) [if it is a relevant authority in England or a police authority in Wales,] ² inform the Standards Board for England that copies of the register are so available [, and] ¹

[(c) if it is a relevant authority in Wales, inform the Public Services Ombudsman for Wales that copies of the register are so available.]¹

(8) In its application to standards committees of relevant authorities in Wales (other than police authorities), subsection (5) has effect as if for the reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

Notes

¹ Added by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.22(b) (April 1, 2006)

² Words inserted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.22(a) (April 1, 2006)

Commencement

Pt III c. V s. 81(1)-(4), (6)-(7)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. V s. 81(5), (8): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. V s. 81(1)-(8): England, Wales

Code of conduct for local government employees

Law In Force

82.— Code of conduct for local government employees.

- (1) The Secretary of State may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in England and police authorities in Wales.
- (2) The National Assembly for Wales may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in Wales (other than police authorities).
- (3) The power under subsection (1) or (2) to issue a code includes power—
 - (a) to issue a separate code for council managers (within the meaning of Part II of this Act), and
 - (b) to revise any code which has been issued.
- (4) Before making an order under this section, the Secretary of State must consult—
 - (a) such representatives of relevant authorities in England, and of employees of such authorities, as he considers appropriate,
 - (b) the Audit Commission, and
 - (c) the Commission for Local Administration in England.
- (5) Before making an order under this section so far as it relates to police authorities in Wales, the Secretary of State must consult—
 - (a) such representatives of police authorities in Wales, and of employees of such authorities, as he considers appropriate,
 - [(aa) the Auditor General for Wales,]¹
 - (b) [the Public Services Ombudsman for Wales]² , and

- (c) the National Assembly for Wales.
- (6) Before making an order under this section, the National Assembly for Wales must consult—
- (a) such representatives of relevant authorities in Wales, and of employees of such authorities, as it considers appropriate,
 - (b) [Auditor General for Wales]³, and
 - (c) [the Public Services Ombudsman for Wales]².
- (7) The terms of appointment or conditions of employment of every qualifying employee of a relevant authority (whether appointed or employed before or after the commencement of this section) are to be deemed to incorporate any code for the time being under this section which is applicable.
- (8) In this section “qualifying employee”, in relation to a relevant authority, means an employee of the authority other than an employee falling within any description of employee specified in regulations under this subsection.
- (9) The power to make regulations under subsection (8) is to be exercised—
- (a) in relation to England, by the Secretary of State, and
 - (b) in relation to Wales, by the National Assembly for Wales.

Notes

- ¹ Added by Public Audit (Wales) Act 2004 c. 23 Sch.2 para.55(2) (April 1, 2005)
- ² Words substituted by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.4 para.23 (October 12, 2005: substitution has effect subject to transitional provisions specified in SI 2005/2800 art.4(3))
- ³ Words substituted by Public Audit (Wales) Act 2004 c. 23 Sch.2 para.55(3) (April 1, 2005)

Commencement

Pt III c. V s. 82(1), (4)-(5)(c), (7): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Pt III c. V s. 82(2)-(3)(b), (6)-(6)(c), (8)-(9)(b): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Extent

Pt III c. V s. 82(1)-(9)(b): England, Wales

[Delegation by monitoring officers]¹

Notes

- ¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.113(2) (November 18, 2003)

Law In Force

[82A Monitoring officers: delegation of functions under Part 3

(1) This section applies to functions of a monitoring officer of a relevant authority in relation to matters referred to him under [section 57A, 60(2) or (3), 64(2) or (4), 70(4) or (5) or 71(2) or (4)]².

(2) Where the monitoring officer considers that in a particular case he himself ought not to perform particular functions to which this section applies, those particular functions shall in that case be performed personally by a person nominated for the purpose by the monitoring officer.

(3) Where a deputy nominated by the monitoring officer under section 5(7) of the Local Government and Housing Act 1989 (nomination of member of monitoring officer's staff to act as deputy when monitoring officer absent or ill) considers that in a particular case he himself ought not to perform particular functions—

(a) to which this section applies, and

(b) which, by reason of the absence or illness of the monitoring officer, would but for this subsection fall to be performed by the deputy,

those particular functions shall, while the monitoring officer continues to be unable to act by reason of absence or illness, be performed in that case personally by a person nominated for the purpose by the deputy.

(4) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is an officer of the relevant authority, the authority shall provide the officer with such staff, accommodation and other resources as are, in the officer's opinion, sufficient to allow those functions to be performed.

(5) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is not an officer of the relevant authority, the authority shall—

(a) pay the person a reasonable fee for performing the functions,

(b) reimburse expenses properly incurred by the person in performing the functions, but only to the extent that the amount of the expenses is reasonable, and

(c) provide the person with such staff, accommodation and other resources as are reasonably necessary for the person's performance of the functions.

]¹

Notes

¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.113(2) (November 18, 2003)

² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.194(9) (January 31, 2008)

Extent

Pt III c. V s. 82A(1)-(5)(c): England, Wales

Interpretation

Law In Force

83.— Interpretation of Part III.

(1) In this Part—

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England [...]¹,

“case tribunal” has the meaning given by section 76(1),

“code of conduct” means a code of conduct under section 51,

“co-opted member” has the meaning given by section 49 (7),
 “elected mayor” and “elected executive member” have the meaning given by section 39(1) and (4),
 “ethical standards officer” means a person appointed under section 57(5)(a),
 “executive” is to be construed in accordance with section 11,
 “executive arrangements” has the meaning given by section 10,
 “executive leader” has the meaning given by [section 11(2A)(a) or (3)(a)]²,
 “interim case tribunal” has the meaning given by section 76(2),
 [...] ³
 “model code of conduct” is to be construed in accordance with section 50(1) and (2),
 “police authority” means a police authority established under section 3 of the Police Act 1996,
 (a)-(b) [...] ⁴
 “relevant authority” has the meaning given by section 49(6).

- (2) Any reference in this Part to a committee of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to a committee of an executive of the authority.
- (3) Any reference in this Part to a member of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to an elected mayor or elected executive member of the authority.
- (4) Any reference in this Part to a member of a relevant authority, in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.
- (5) Any reference in this Part to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.
- (6) Any reference in this Part to a failure to comply with a relevant authority's code of conduct includes a reference to a failure to comply with the mandatory provisions which apply to the members or co-opted members of the authority by virtue of section 51(5)(b).
- (7) Any reference in this Part to a person being partially suspended from being a member or co-opted member of a relevant authority includes a reference to a person being prevented from exercising particular functions or having particular responsibilities as such a member or co-opted member.
- (8) The reference in subsection (7) to particular functions or particular responsibilities as a member of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to particular functions or particular responsibilities as a member of an executive of the authority.
- (9) A person who is suspended under this Part from being a member of a relevant authority shall also be suspended from being a member of any committee, sub-committee, joint committee or joint sub-committee of the authority, but this subsection does not apply to a person who is partially suspended under this Part.
- (10) A person who is suspended under this Part from being a member of a relevant authority to which Part II of this Act applies shall also be suspended, if he is a member of an executive of the authority, from being such a member; but this subsection does not apply to a person who is partially suspended under this Part.

(11) A person who is disqualified under this Part for being or becoming a member of a relevant authority shall also be disqualified—

- (a) for being or becoming a member of any committee, sub-committee, joint committee or joint sub-committee of the authority, and
- (b) if the authority is one to which Part II of this Act applies, for being or becoming a member of an executive of the authority.

(12) Any function which by virtue of this Part is exercisable by or in relation to the monitoring officer of a relevant authority which is a parish council is to be exercisable by or in relation to the monitoring officer of the district council or unitary county council which are the responsible authority in relation to the parish council; and any reference in this Part to the monitoring officer of a relevant authority which is a parish council is to be construed accordingly.

(13) Any function which by virtue of this Part is exercisable by or in relation to the monitoring officer of a relevant authority which is a community council is to be exercisable by or in relation to the monitoring officer of the county council or county borough council in whose area the community council is situated; and any reference in this Part to the monitoring officer of a relevant authority which is a community council is to be construed accordingly.

(14) Any functions which are conferred by virtue of this Part on a relevant authority to which Part II of this Act applies are not to be the responsibility of an executive of the authority under executive arrangements.

(15) Any functions which are conferred on the Greater London Authority by virtue of this Part are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(16) Subsections (12) and (13) of section 55 are to apply for the purposes of subsection (12) as they apply for the purposes of that section.

Notes

- ¹ Words repealed by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(9) para.1 (April 1, 2008)
- ² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.26 (December 30, 2007)
- ³ Definition repealed by Public Services Ombudsman (Wales) Act 2005 c. 10 Sch.7 para.1 (April 1, 2006 as SI 2005/2800)
- ⁴ Definition repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.64 (January 18, 2010)

Commencement

Pt III c. V s. 83(1)-(3), (5)-(11)(b), (13)-(14): November 1, 2000 in relation to Wales; December 19, 2000 in relation to England and police authorities in Wales (SI 2000/2948 art. 2; SI 2000/3335 art. 2)

Pt III c. V s. 83(4), (12), (15)-(16): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt III c. V s. 83(1)-(16): England, Wales

PART IV

ELECTIONS

Law In Force

84.— Meaning of “local authority” and “principal council” in Part IV.

- (1) In relation to England—
“local authority” means a principal council or a parish council,
“principal council” means a county council, a district council or a London borough council.
- (2) In relation to Wales—
“local authority” means a principal council or a community council,
“principal council” means a county council or a county borough council.
- (3) This section applies for the purposes of this Part.

Commencement

Pt IV s. 84(1)-(3): September 28, 2000 (2000 c. 22 Pt VI s. 108(2))

Extent

Pt IV s. 84(1)-(3): England, Wales

Law In Force

85.— Options for elections.

- (1) For the purposes of this Part the three options for the scheme for the ordinary elections of councillors of a principal council are those set out in this section.
- (2) The first option is for a scheme under which—
(a) the term of office of councillors is four years,
(b) the elections are held in a given year and every fourth year after it,
(c) all the councillors are elected in each year in which the elections are held, and
(d) the councillors retire together.
- (3) The second option is for a scheme under which—
(a) the term of office of councillors is four years,
(b) the elections are held in a given year and every second year after it,
(c) one half (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and
(d) one half (or as nearly as may be) of the councillors retire in each year in which the elections are held.
- (4) The third option is for a scheme under which—
(a) the term of office of councillors is four years,
(b) the elections are held in a given year and every year after it other than every third year after it,
(c) one third (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and

- (d) one third (or as nearly as may be) of the councillors retire in each year in which the elections are held.

Commencement

Pt IV s. 85(1)-(4)(d): September 28, 2000 (2000 c. 22 Pt VI s. 108(2))

Extent

Pt IV s. 85(1)-(4)(d): England, Wales

Law In Force

86.— Power to specify a scheme for elections.

[(A1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council in England is the scheme under the first option set out in section 85.]¹

(1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council [in Wales]² is the scheme under such of the options set out in section 85 as is specified in the order.

(2) A council is specified if it is—

- (a) a principal council (or one of the principal councils) specified by name in the order, or
- (b) a principal council falling within any description of principal council specified in the order.

(3) An order may make provision in relation to a council if the scheme specified in the order is different from the scheme which prevails (whether by virtue of an earlier order under this section or otherwise) for the ordinary elections of its councillors.

(4) An order may include provision specifying the years in which the ordinary elections are to be held.

(5) In a case where the specified scheme is that under the second or third option, an order may include provision for identifying which councillors are to retire in a particular year, and such provision may include—

- (a) provision for identifying the electoral divisions or wards affected,
- (b) provision for identifying the councillors affected within particular electoral divisions or wards.

(6) Provision under subsection (5) may include—

- (a) provision allowing the Secretary of State to direct councils to propose methods (complying with any guidance he may issue) for identifying electoral divisions, wards or councillors,
- (b) provision allowing him to give directions as to the methods to be adopted (whether those proposed or otherwise).

(7) An order may include provision designed to secure the transition from a prevailing scheme to the one specified in the order, and such provision may include—

- (a) provision to secure the retirement of existing councillors at times different from those applying under a prevailing scheme,

(b) in a case where the specified scheme is that under the second or third option, provision for the initial election of all the councillors, for the retirement of some of them before the end of the normal term of four years, and for identifying which of them are so to retire.

Notes

- ¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 2 c.1 s.54(3)(a) (December 30, 2007)
- ² Words inserted subject to savings specified in 2007 c.28 s.54(6) by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 2 c.1 s.54(3)(b) (December 30, 2007: insertion has effect subject to savings specified in 2007 c.28 s.54(6))

Commencement

Pt IV s. 86(1)-(7)(b): September 28, 2000 (2000 c. 22 Pt VI s. 108(2))

Extent

Pt IV s. 86(A1)-(7)(b): England, Wales

Law In Force

87.— Power to change years in which elections held.

(1) The Secretary of State may by order make provision which changes the years in which the ordinary elections of councillors of any specified local authority are to be held but which does not change the scheme which prevails (whether by virtue of an order under section 86 or otherwise) for the ordinary elections of those councillors.

(2) A local authority is specified if it is—

- (a) a local authority (or one of the local authorities) specified by name in the order, or
- (b) a local authority falling within any class or description of local authority specified in the order.

(3) An order may include provision to secure the retirement of existing councillors at times different from those at which they would otherwise retire.

Commencement

Pt IV s. 87(1)-(3): September 28, 2000 (2000 c. 22 Pt VI s. 108(2))

Extent

Pt IV s. 87(1)-(3): England, Wales

Law In Force

88.— Separate power to make incidental provisions etc.

(1) If the Secretary of State makes an order under section 86 or 87 he may make a separate order containing such incidental, consequential, transitional or supplemental provision as could have been included in the order made under that section.


(2) This applies whether or not the order under section 86 or 87 itself includes incidental, consequential, transitional or supplemental provision.

Commencement

Pt IV s. 88(1)-(2): September 28, 2000 (2000 c. 22 Pt VI s. 108(2))

Extent

Pt IV s. 88(1)-(2): England, Wales

 Law In Force

89.— Consequential electoral changes.

(1) The Local Government Act 1992 is amended as mentioned in subsections (2) and (3).

(2)-(3) [...] ¹

(4) In section 6(2)(a) of the Local Government Act 1972 (electoral division of non-metropolitan county to return one councillor) after “Act” insert “and subject to sections 14(8) and 17(7) of the Local Government Act 1992”.

Notes

¹ Repealed by Local Democracy, Economic Development and Construction Act 2009 c. 20 Sch.7(3) para.1 (April 1, 2010 as SI 2009/3318)

Commencement

Pt IV s. 89(1)-(4): September 28, 2000 (2000 c. 22 Pt VI s. 108(2))

Extent

Pt IV s. 89(1)-(4): England, Wales

PART V

MISCELLANEOUS

Surcharge etc.

 Partially In Force

90.— Surcharge etc.

(1) The Audit Commission Act 1998 is amended as follows.

(2) In section 17 (declaration that item of account is unlawful)–

(a) subsection (1)(b),

(b) in subsection (2), the words “subject to subsection (3)” and paragraphs (a) and (b), and

(c) subsections (3), (5)(b), (7) and (8),

are omitted.


(3) Section 18 (recovery of amount not accounted for etc.) is omitted.

Commencement

Pt V s. 90(1)-(3): July 27, 2002 in relation to England and police authorities in Wales; not yet in force otherwise (SI 2002/1718 art. 2(a))

Extent

Pt V s. 90(1)-(3): England, Wales

 Partially In Force

91.— Advisory notices.

(1) After section 19 of the Audit Commission Act 1998 there is inserted—

“19A.— Other bodies: advisory notices.

(1) The auditor for the time being of the accounts of a body subject to audit other than a health service body may issue a notice under this section (“an advisory notice”) if he has reason to believe that the body or an officer of the body—

- (a) is about to make or has made a decision which involves or would involve the body incurring expenditure which is unlawful,
- (b) is about to take or has begun to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
- (c) is about to enter an item of account, the entry of which is unlawful.

(2) For the purposes of this section and section 19B the actions of—

- (a) a committee or sub-committee of a body, or
 - (b) any other person (other than an officer) authorised to act on behalf of the body,
- are to be treated as the actions of the body itself.

(3) An advisory notice is a notice which—

- (a) is addressed to the body or officer concerned,
- (b) specifies the paragraph of subsection (1) which is relevant and the decision, course of action or item of account to which the notice relates,
- (c) specifies that the notice will take effect on the day a copy of the notice is served on the person to whom it is addressed, and
- (d) requires the body or officer before—
 - (i) making or implementing the decision,
 - (ii) taking or continuing to take the course of action, or
 - (iii) entering the item of account,

(as the case may be) to give the person who is for the time being the auditor of the accounts of the body not less than the specified number of days' notice in writing of the intention of the body or officer to do that thing,
and in paragraph (d) the reference to the specified number is to such number not exceeding 21 as is specified in the notice.

(4) Where two or more auditors are appointed in relation to the accounts of any body—

- (a) the power to issue an advisory notice may be exercised by the auditors acting jointly or by such one of them as they may determine, and
 - (b) in relation to such a notice, references in subsections (5) and (6) to the auditor are references to the auditor or auditors by whom the notice is issued.
- (5) A copy of an advisory notice—
- (a) shall be served on the body to which, or to an officer of which, it is addressed,
 - (b) in the case of a notice addressed to an officer, shall also be served on him, and
 - (c) may be served on such other person or persons as the auditor considers appropriate.
- (6) The auditor shall serve a statement of his reasons for the belief referred to in subsection (1) on the body concerned, and on any officer on whom a copy of the notice was served under subsection (5)(b), before the end of the period of 7 days beginning on the day on which a copy of the notice was served on the person to whom it is addressed.
- (7) Where this section requires any document to be served on an officer of a body, it shall be served on him by addressing it to him and delivering it to him or leaving it at, or sending it by post to, the office at which he is employed.
- (8) An advisory notice may at any time be withdrawn by the person who is for the time being the auditor in relation to the accounts of the body to which, or to an officer of which, the notice was addressed, and the auditor shall give notice in writing of the withdrawal to any body or person on whom a copy of the advisory notice was served under subsection (5).

19B.— Effect of an advisory notice.

- (1) While an advisory notice has effect, it is not lawful for the body concerned or any officer of that body—
- (a) where the notice relates to a decision, to make or implement the decision,
 - (b) where the notice relates to a course of action, to take or continue to take the course of action, or
 - (c) where the notice relates to an item of account, to enter the item of account,
- unless and until the conditions set out in subsection (2) are satisfied.
- (2) The conditions are—
- (a) that the body has considered, in the light of the advisory notice and the statement under section 19A(6), the consequences of doing the thing mentioned in the paragraph of subsection (1) which is relevant,
 - (b) that the body or officer has given the person who is for the time being the auditor of the accounts of the body the period of notice in writing required by the advisory notice under section 19A(3)(d), and
 - (c) that that period has expired.
- (3) An advisory notice takes effect on the day on which a copy of the notice is served on the person to whom it is addressed, and ceases to have effect—
- (a) where a statement of reasons is not served in accordance with subsection (6) of section 19A, at the end of the period specified in that subsection, or
 - (b) when it is withdrawn under section 19A(8).

(4) Any expenses reasonably incurred by an auditor in or in connection with the issue of an advisory notice are recoverable by him from the body concerned.

(5) In this section “the body concerned”, in relation to an advisory notice, means the body to which, or to any officer of which, the notice is addressed.

19C.—

(1) Where—

(a) before an advisory notice is served, a body enters into a contract to dispose of or acquire an interest in land, and

(b) before the disposal or acquisition is completed, an advisory notice takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition, the existence of the advisory notice does not prejudice any remedy in damages which may be available to any person by reason of the body's failure to complete the contract.

(2) No action lies against an auditor in respect of loss or damage alleged to have been caused by reason of the issue of an advisory notice which was issued in good faith.”

(2) Sections 20 to 23 of the Audit Commission Act 1998 (prohibition orders) cease to have effect.

Commencement

Pt V s. 91(1)-(2): December 19, 2000 in relation to England and police authorities in Wales; not yet in force otherwise (SI 2000/3335 art. 2)

Extent

Pt V s. 91(1)-(2): England, Wales

Maladministration etc.

Law In Force

92.— Payments in cases of maladministration etc.

(1) Where a relevant authority consider—

(a) that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, maladministration, and

(b) that a person has been, or may have been, adversely affected by that action,

the authority may, if they think appropriate, make a payment to, or provide some other benefit for, that person.

(2) Any function which is conferred on the Greater London Authority under this section is to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.

(3) In this section—

“action” includes failure to act,

“relevant authority” has the same meaning as in Part III of this Act.


Commencement

Pt V s. 92(1)-(3) definition of "relevant authority": December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Pt V s. 92(1)-(3) definition of "relevant authority": England, Wales

Welfare services

 Partially In Force

93.— Grants for welfare services.

(1) The Secretary of State may, with the consent of the Treasury, pay grants to local authorities in England towards expenditure incurred by them [...]¹

[(a) in providing, or contributing to the provision of, such welfare services as may be determined by the Secretary of State, or

(b) in connection with any such welfare services.]¹

(2) The National Assembly for Wales may pay grants to local authorities in Wales towards expenditure incurred by them [...]²

[(a) in providing, or contributing to the provision of, such welfare services as may be determined by the Assembly, or

(b) in connection with any such welfare services.]²

(3) The amount of any grants under this section and the manner of their payment are to be such as may be determined by the Secretary of State or the Assembly (as the case may be).

(4) Grants under this section may be paid—

(a) to all local authorities,

(b) to particular local authorities, or

(c) to particular descriptions of local authority (including descriptions framed by reference to authorities in particular areas).

(5) Grants under this section may be paid on such terms and conditions as the Secretary of State or, as the case may be, the Assembly may determine; and nothing in subsection (6) affects the generality of this subsection.

(6) Those terms and conditions may include provision as to the circumstances in which the whole or any part of a grant under this section must be repaid to the Secretary of State or the Assembly.

[(6A) Before making any determination under subsection (3) or (5) the Secretary of State must obtain the consent of the Treasury.]³

(7) A local authority must supply the Secretary of State or, as the case may be, the Assembly with such information as he or it may require for the purposes of this section.

(8) A local authority must have regard to any guidance for the time being issued by the Secretary of State or, as the case may be, the Assembly with respect to the administration and application of grants under this section which are paid to them.

(9) A local authority must comply with any directions for the time being given by the Secretary of State or, as the case may be, the Assembly with respect to the administration and application of grants under this section which are paid to them.

(10) Any determination, guidance or directions under this section may make different provision in relation to different local authorities or descriptions of local authority (including descriptions framed by reference to authorities in particular areas).

(11) Before making any determination, issuing any guidance or giving any directions under this section relating to all local authorities in England or Wales or any description of such authorities, the Secretary of State or (as the case may be) the National Assembly for Wales must consult—

- (a) such local authorities or representatives of local authorities as appear to him or it to be appropriate,
- (b) such recipients, or representatives of recipients, of welfare services as appear to him or it to be appropriate, and
- (c) such providers, or representatives of providers, of welfare services as appear to him or it to be appropriate.

(12) In this section—

“local authority” means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,
- (b) in relation to Wales, a county council or a county borough council,

“welfare services” includes services which provide support, assistance, advice or counselling to individuals with particular needs.

Notes

¹ S.93(1)(a)-(b) substituted for words by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.136(2) (November 7, 2002)

² S.93(2)(a)-(b) substituted for words by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.136(3) (November 7, 2002)

³ Added by Adoption and Children Act 2002 c. 38 Pt 3 c.1 s.136(4) (November 7, 2002)

Commencement

Pt V s. 93(1): December 19, 2000 in relation to England and police authorities in Wales; not yet in force otherwise (SI 2000/3335 art. 2)

Pt V s. 93(2): December 19, 2000 in relation to England and police authorities in Wales; June 30, 2002 in relation to Wales otherwise (SI 2000/3335 art. 2; SI 2002/1359 art. 2(a))

Pt V s. 93(3)-(9), (11)-(12) definition of "welfare services": December 19, 2000 in relation to England and police authorities in Wales; June 30, 2002 in relation to local authorities in Wales; not yet in force otherwise (SI 2000/3335 art. 2; SI 2002/1359 art. 2(b))

Pt V s. 93(10): December 19, 2000 in relation to England and police authorities in Wales; June 30, 2002 in relation to local authorities in Wales; not yet in force otherwise (SI 2000/3335 art. 2; SI 2002/1359 art. 2(b))

Extent

Pt V s. 93(1)-(12) definition of "welfare services": England, Wales

R Repealed

94.— [...]¹

Notes

¹ Repealed by Welfare Reform Act 2007 c. 5 Sch.8 para.1 (September 1, 2008: repeal has effect on September 1, 2008 as specified in SI 2008/2101 subject to transitional provisions and savings specified in SI 2008/2101 art.3(1) and (2))

R Repealed

95.— [...]¹

Notes

¹ Repealed by Welfare Reform Act 2007 c. 5 Sch.8 para.1 (September 1, 2008: repeal has effect on September 1, 2008 as specified in SI 2008/2101 subject to transitional provisions and savings specified in SI 2008/2101 art.3(1) and (2))

N Not Yet In Force

96.— **Housing benefit.**

(1) Section 130 of the Social Security Contributions and Benefits Act 1992 (housing benefit) is amended as follows.

(2) At the end of subsection (2) there is inserted—

“but this subsection is subject to subsection (2A).

(2A) Except to the extent that regulations otherwise provide, payments in respect of services which provide support, assistance, advice or counselling to individuals with particular needs are not “payments in respect of a dwelling” for the purposes of subsection (1).”

(3) After subsection (4) there is inserted—

“(4A) Regulations under subsection (2A) above may make provision with respect to particular areas, particular authorities or particular descriptions of authority.”

Commencement

Pt V s. 96(1)-(3): Date to be appointed (not yet in force)

Extent

Pt V s. 96(1)-(3): England, Wales, Scotland

Access to information

✔ Law In Force

97.— Background papers.

(1) In section 100D of the Local Government Act 1972 (inspection of background papers) for subsection (1) there is substituted—

“(1) Subject, in the case of section 100C(1), to subsection (2) below, if and so long as copies of the whole or part of a report for a meeting of a principal council are required by section 100B(1) or 100C(1) above to be open to inspection by members of the public—

- (a) those copies shall each include a copy of a list, compiled by the proper officer, of the background papers for the report or the part of the report, and
- (b) at least one copy of each of the documents included in that list shall also be open to inspection at the offices of the council.”

(2) In subsection (2) the words “of the list, or” are omitted.

Commencement

Pt V s. 97(1): October 1, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 3)

Pt V s. 97(2): October 1, 2000 in relation to England; July 28, 2001 in relation to Wales

Extent

Pt V s. 97(1)-(2): England, Wales

✔ Law In Force

98.— Meetings and documents: notice etc.

(1) In section 100K of the Local Government Act 1972 (interpretation and application of Part VA), after subsection (2) there is inserted—

“(3) The Secretary of State may by order amend sections 100A(6)(a) and 100B(3) and (4)(a) above so as to substitute for each reference to three clear days such greater number of days as may be specified in the order.

(4) Any statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) In Schedule 12 to that Act (meetings and proceedings of local authorities), after paragraph 4 there is inserted—

“4A.—

(1) The Secretary of State may by order amend paragraph 4(2) above so as to substitute for the reference to three clear days such greater number of days as may be specified in the order.

(2) Any statutory instrument containing an order under sub-paragraph (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement

Pt V s. 98(1)-(2): October 1, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 3)

Extent

Pt V s. 98(1)-(2): England, Wales

Allowances and pensions

✔ Law In Force

! Amendment(s) Pending

99.— Allowances and pensions for certain local authority members.

(1) The provision which may be made by regulations under section 7 of the Superannuation Act 1972 (superannuation of persons employed in local government service etc) includes provision for or in connection with the provision of pensions, allowances or gratuities to or in respect of such members of a local authority as may be prescribed by the regulations.

(2) In subsection (1) “local authority” has the same meaning as in Part II of this Act.

(3) Section 18 of the Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local authority members) is amended as follows.

(4) At the beginning of subsection (1) there is inserted “Subject to subsection (1A),” and after that subsection there is inserted—

“(1A) In relation to a district council, county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b).”

(5) After subsection (2) there is inserted—

“(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members.”

(6) In subsection (3), for “and (2)” there is substituted “to (2A)”.

(7) After subsection (3) there is inserted—

“(3A) Regulations under this section may make provision for or in connection with—

(a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,

(b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.

(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.

(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.

(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of county councils and county borough councils in Wales.

(3E) Regulations under subsection (3B) above may include provision—

- (a) with respect to the number of persons who may or must be appointed to the panel of a council,
- (b) with respect to the persons who may or must be appointed to the panel of a council,
- (c) for or in connection with the appointment by councils of joint panels.

(3F) Regulations under subsection (3C) may include provision—

- (a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,
- (b) with respect to the persons who may or must be appointed to such a panel.

(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—

- (a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,
- (b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,
- (c) which permits different recommendations to be made in relation to different councils or descriptions of council.”

(8) In subsection (4), for the word “and” at the end of paragraph (b) there is substituted—

“(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and”.

(9) After subsection (5) there is inserted—

“(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough

council shall have regard to any guidance for the time being issued by the Secretary of State.”

Amendments Pending

Pt V s. 99(1): words inserted by Local Government (Wales) Measure 2011 c. 04, Sch. 3 para. 5(2) (date to be appointed)

Commencement

Pt V s. 99(1)-(2), (5)-(9): February 19, 2001 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2001/415 art. 2(b))

Pt V s. 99(3): February 19, 2001 in relation to England except as relates to 2000 c.22 s.99(4); July 28, 2001 otherwise (SI 2001/415 art. 2(b))

Pt V s. 99(4): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Pt V s. 99(1)-(9): England, Wales

☑ Law In Force

! Amendment(s) Pending

100.— Power to make provision about allowances.

- (1) The Secretary of State may by regulations make provision with respect to—
- (a) allowances payable to members of a parish council,
 - (b) travelling and subsistence allowances payable to members of such relevant authorities as may be prescribed,
 - (c) allowances payable to members of such relevant authorities as may be prescribed for attending conferences or meetings,
 - (d) the reimbursement of expenses incurred by members of such relevant authorities as may be prescribed.
- (2) For the purposes of this section a member of a committee or sub-committee of a relevant authority is to be treated as a member of the authority.
- (3) The provision which may be made under subsection (1)(b) includes provision with respect to allowances in respect of travel by bicycle or by any other non-motorised form of transport.
- (4) The provision which may be made under this section includes provision which amends or repeals any provisions of sections 173 to 178 of the Local Government Act 1972.
- (5) Before making any regulations under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.
- (6) In this section—
- “prescribed” means prescribed by regulations made by the Secretary of State,
- “relevant authority” means—
- (a) a body specified in section 21(1) of the Local Government and Housing Act 1989,
 - (b) a body on which a body falling within paragraph (a) is represented,
 - (c) a parish council.

- (7) In its application to Wales this section has effect as if–
- (a) for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales,
 - (b) for any reference to a parish council there were substituted a reference to a community council.

Amendments Pending

Pt V s. 100: repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(F) para. 1 (date to be appointed)

Commencement

Pt V s. 100(1)-(7)(b): November 1, 2000 in relation to Wales; February 19, 2001 in relation to England (SI 2000/2948 art. 2; SI 2001/415 art. 2(b))

Extent

Pt V s. 100(1)-(7)(b): England, Wales

Indemnification of members and officers of relevant authorities

Law In Force

101.— Indemnification of members and officers of relevant authorities.

- (1) The Secretary of State may by order make provision for or in connection with conferring power on relevant authorities in England and police authorities in Wales to provide indemnities to some or all of their members and officers.
- (2) The National Assembly for Wales may by order make provision for or in connection with conferring power on relevant authorities in Wales (other than police authorities) to provide indemnities to some or all of their members and officers.
- (3) An order under this section may apply–
- (a) to all relevant authorities, or
 - (b) to any particular description of relevant authority.
- (4) Before making an order under this section, the Secretary of State or (as the case may be) the National Assembly for Wales must consult–
- (a) such representatives of relevant authorities,
 - (b) such representatives of employees of relevant authorities, and
 - (c) such other persons,
- as he or it considers appropriate.
- (5) In this section–
- “member”, in relation to a relevant authority, includes–
 - (i) a member of any committee or sub-committee of the authority, or
 - (ii) a person who is a member of, and represents the authority on, any joint committee or sub-committee,
 - “police authority” and “relevant authority” have the same meaning as in Part III of this Act.

Commencement

Pt V s. 101(1): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Pt V s. 101(2)-(5) definition of "police authority": November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2948 art. 2)

Extent

Pt V s. 101(1)-(5) definition of "police authority": England, Wales

Social services functions

Law In Force

102.— Social services functions.

(1) [...] ¹

(2) Section 6(5) of [the Local Authority Social Services Act 1970] ¹ (social services director not to discharge non-social services functions without approval of Secretary of State) ceases to have effect.

(3) After section 1 of that Act there is inserted the following section—

“1A. Meaning of “social services functions”.

For the purposes of this Act the social services functions of a local authority are—

(a) their functions under the enactments specified in the first column of Schedule 1 to this Act (being the functions which are described in general terms in the second column of that Schedule), and

(b) such other of their functions as the Secretary of State may designate by an order made under this section.”

Notes

¹ Modified by Children Act 2004 c. 31 Pt 5 s.55(5) (April 1, 2006 as SI 2006/885)

Commencement

Pt V s. 102(1)-(3): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(a))

Extent

Pt V s. 102(1)-(3): England, Wales

Recoupment by local authorities of cost of providing day care

Law In Force

103.— Recoupment by local authorities of cost of providing day care.

(1) In subsection (3) of section 29 of the Children Act 1989 (recoupment of cost of providing services etc.), after “subsection (1)” there is inserted “for a service provided under section 17 or section 18(1) or (5)”.

(2) After that subsection there is inserted—

“(3A) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when he is in receipt of income support under Part VII of the Social Security Contributions and Benefits Act 1992 or of an income-based jobseeker’s allowance.”

Commencement

Pt V s. 103(1)-(2): August 25, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2420 art. 2)

Extent

Pt V s. 103(1)-(2): England, Wales

Prohibition on promoting homosexuality: bullying

Repealed

104. [...]¹**Notes**

¹ Repealed by Local Government Act 2003 c. 26 Sch.8(1) para.1 (November 18, 2003: September 18, 2003 for repeals specified in 2003 c.26 s.128(1)(c); November 18, 2003 for repeals specified in 2003 c.26 s.128(2)(f); November 18, 2003 for repeals specified in SI 2003/2938 art.2(h)(i)-(v); November 18, 2003 in relation to England for repeals specified in SI 2003/2938 art.3(i); November 27, 2003 for repeals specified in SI 2003/3034 Sch.1 Part I; January 1, 2004 for repeals specified in SI 2003/2938 art.4(e); April 1, 2004 for repeals specified in SI 2003/2938 art.6(e); April 1, 2004 in relation to England for repeals specified in SI 2003/2938 art.7(e); November 25, 2004 for repeals specified in SI 2004/3132 art.2(e); April 1, 2005 in relation to England for the repeal specified in SI 2004/3132 art.3(2)(d); not yet in force otherwise)

PART VI**SUPPLEMENTAL**

Law In Force

105.— Orders and regulations.

(1) Any power to make an order or regulations under this Act is exercisable by statutory instrument.

- (2) Any order or regulations under this Act—
- (a) may contain such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient,
 - (b) may make different provision for different cases, authorities or descriptions of authority.
- (3) The provision which may be made under subsection (2) includes provision modifying any enactment (whenever passed or made).
- (4) The power under subsection (3) to modify an enactment is a power—
- (a) to apply that enactment with or without modifications,
 - (b) to extend, disapply or amend that enactment, or
 - (c) to repeal or revoke that enactment with or without savings.
- (5) Subject to subsections (6) and (7), a statutory instrument which contains an order or regulations under this Act is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) [Subject to subsection (6A), a]¹ statutory instrument which contains an order under section 3(3), 5, 6, 49 or 101, or regulations under section 11(5), 31(1)(b), 32, 44 or 45, is not to be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- [(6A) Subsection (6) does not apply to a statutory instrument which contains an order under section 3(3), 5 or 6 if the order is made only for the purpose of amending an earlier such order—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.
-]¹
- (7) Subsection (5) does not apply to a statutory instrument which contains an order under section 108.
- (8) In this section “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978). [³]²

Notes

¹ Modified by Local Government Act 2003 c. 26 Sch.3 para.14 (November 27, 2003 as SI 2003/3034)

² Word inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.27 (December 30, 2007)

³ **In relation to England and Wales:**

105.— Orders and regulations.

(1) Any power to make an order or regulations under this Act is exercisable by statutory instrument.

(2) Any order or regulations under this Act—

- (a) may contain such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient,
- (b) may make different provision for different cases, authorities or descriptions of authority.

(3) The provision which may be made under subsection (2) includes provision modifying any enactment (whenever passed or made).

(4) The power under subsection (3) to modify an enactment is a power—

- (a) to apply that enactment with or without modifications,
- (b) to extend, disapply or amend that enactment, or
- (c) to repeal or revoke that enactment with or without savings.

(5) Subject to subsections (6) and (7), a statutory instrument which contains an order or regulations under this Act is to be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) Subject to subsection (6A), a statutory instrument which contains an order under [section 3(3), 5, 6, 49, 63(1)(j) or 101]⁴, or regulations under section 11(5), 31(1)(b), 32, 33O(6), 44 or 45, is not to be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

(6A) Subsection (6) does not apply to a statutory instrument which contains an order under section 3(3), 5 or 6 if the order is made only for the purpose of amending an earlier such order—

- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
- (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description.

(7) Subsection (5) does not apply to a statutory instrument which contains an order under section 108.

(8) In this section “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

⁴ Word inserted by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.191(5) (April 1, 2008 for purposes specified in SI 2008/172 art.7(2); not yet in force otherwise)

Commencement

Pt VI s. 105(1)-(8): July 28, 2000 (2000 c. 22 Pt VI s. 108(1))

Extent

Pt VI s. 105(1)-(8): England, Wales, Scotland

Law In Force

Amendment(s) Pending

106.— Wales.

(1) In their application to Wales—

- (a) Part II (but not section 44 or paragraph 7 of Schedule 1),
- (b) Part IV, and
- (c) section 105(2),

have effect as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

(2) Section 105(5) to (7) does not apply to an order or regulations under this Act which is made by the National Assembly for Wales.

(3) Any reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 to an Act which is amended by this Act is to be treated as referring to that Act as amended by this Act.

(4) Subsection (3) does not affect the power to make further Orders varying or omitting that reference.

Amendments Pending

Pt VI s. 106(5)-(7): added by Local Government (Wales) Measure 2011 c. 04, Pt 10 s. 176(1) (date to be appointed)

Commencement

Pt VI s. 106(1)-(4): July 28, 2000 (2000 c. 22 Pt VI s. 108(1))

Extent

Pt VI s. 106(1)-(7): England, Wales

Law In Force

107.— Minor and consequential amendments and repeals.

- (1) Schedule 5 (minor and consequential amendments) has effect.
 - (2) The repeals set out in Schedule 6 have effect.
-

Commencement

Pt VI s. 107(1): October 26, 2000 in relation to England for provisions specified in SI 2000/2849; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(h))

Pt VI s. 107(2): October 1, 2000 in relation to repeals specified in SI 2000/2187; October 18, 2000 in relation to repeals specified in SI 2000/2836; October 18, 2000 in relation to repeals specified in SI 2000/2849; April 9, 2001 in relation to repeals specified in SI 2001/1411 art.2; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 3; SI 2000/2836 art. 2(c); SI 2000/2849 art. 2(h); SI 2001/1411 art. 2)

Extent

Pt VI s. 107(1)-(2): England, Wales

Law In Force

108.— Commencement.

- (1) This section and sections 105, 106 and 109 come into force on the day on which this Act is passed.
- (2) The following provisions of this Act—
 - (a) Part IV,
 - (b) section 104, and
 - (c) in Schedule 6, the repeal of paragraph 63 of Schedule 37 to the Education Act 1996,come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) The following provisions of this Act—
 - (a) section 90, 91, and 93 to 96,
 - (b) in Schedule 5, paragraph 8, 12, 13, 15, 25, 26 and 34,
 - (c) in Schedule 6, the repeal—
 - (i) in section 80(1)(e) of the Local Government Act 1972,
 - (ii) of sections 94 to 98 and 105 of that Act,

- (iii) in section 265A(1)(b) of that Act,
- (iv) of the provisions of the Local Government Act 1974, the Local Government Act 1985, the Transport Act 1985 and the Financial Services Act 1986 specified in Schedule 6,
- (v) of sections 19, 31 and 32(1) of the Local Government and Housing Act 1989,
- (vi) in Schedule 11 to that Act,
- (vii) of the provisions of the , the Local Government Finance Act 1992, the Local Government (Wales) Act 1994, the Police and Magistrates' Courts Act 1994, the Environment Act 1995, the Police Act 1996, the Police Act 1997, the Audit Commission Act 1998 and the Greater London Authority Act 1999 specified in Schedule 6,

come into force on such day as the Secretary of State may by order appoint.

(4) Subject to subsections (5) and (6), the remaining provisions of this Act come into force at the end of the period of 12 months beginning with the day on which this Act is passed.

(5) The Secretary of State may by order provide—

- (a) for paragraphs 17 and 18 of Schedule 4 to come into force before the time appointed by subsection (4),
- (b) for paragraph 28 of Schedule 5 to come into force before the time appointed by that subsection,
- (c) for any of the provisions of Part III of this Act so far as they relate to police authorities in Wales to come into force before the time appointed by that subsection, or
- (d) for any of the other provisions mentioned in that subsection to come into force in relation to England before the time appointed by that subsection.

(6) The National Assembly for Wales may by order provide—

- (a) for paragraph 28 of Schedule 5 to come into force before the time appointed by subsection (4), or
- (b) for any of the other provisions mentioned in that subsection to come into force in relation to Wales before the time appointed by that subsection.

(7) An order under subsection (3), (5) or (6) may appoint different days for different purposes.

Commencement

Pt VI s. 108(1)-(7): July 28, 2000 (2000 c. 22 Pt VI s. 108(1))

Extent

Pt VI s. 108(1)-(7): England, Wales, Scotland

Law In Force

109.— Short title and extent.

(1) This Act may be cited as the Local Government Act 2000.

(2) Subject to subsections (3) and (4), this Act extends to England and Wales only.

(3) Sections 94 to 96, 105 and 108 extend also to Scotland.

(4) This section, paragraphs 17 and 18 of Schedule 4 and paragraph 28 of Schedule 5 extend also to Scotland and Northern Ireland.

Commencement

Pt VI s. 109(1)-(4): July 28, 2000 (2000 c. 22 Pt VI s. 108(1))

Extent

Pt VI s. 109(1)-(4): United Kingdom

SCHEDULE 1**EXECUTIVE ARRANGEMENTS: FURTHER PROVISION**

Law In Force

Mayor and cabinet executives**1.—**

(1) This paragraph applies in relation to executive arrangements by a local authority which provide for a mayor and cabinet executive.

(2) Subject to section 11(8), the executive arrangements must include provision which enables the elected mayor to determine the number of councillors who may be appointed to the executive under section 11(2)(b).

(3) The executive arrangements must include provision which requires the elected mayor to appoint one of the members of the executive to be his deputy (referred to in this paragraph as the deputy mayor).

(4) Subject to sub-paragraph (5), the deputy mayor, unless he resigns as deputy mayor or ceases to be a member of the authority, is to hold office until the end of the term of office of the elected mayor.

(5) The elected mayor may, if he thinks fit, remove the deputy mayor from office.

(6) Where a vacancy occurs in the office of deputy mayor, the elected mayor must appoint another person in his place.

(7) If for any reason the elected mayor is unable to act or the office of elected mayor is vacant, the deputy mayor must act in his place.

(8) If for any reason—

(a) the elected mayor is unable to act or the office of elected mayor is vacant, and

(b) the deputy mayor is unable to act or the office of deputy mayor is vacant,

the executive must act in the elected mayor's place or must arrange for a member of the executive to act in his place.

(9) In the case of a local authority in Wales, the deputy mayor is entitled to the style of “dirprwy faer”.

Commencement

Sch. 1 para. 1(1)-(9): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(c))

Extent

Sch. 1 para. 1(1)-(9): England, Wales

Law In Force

[1A.— Leader and cabinet executives (England)

(1) This paragraph applies in relation to executive arrangements by a local authority which provide for a leader and cabinet executive (England).

(2) Subject to section 11(8), the executive arrangements must include provision which enables the executive leader to determine the number of councillors who may be appointed to the executive under section 11(2A)(b).

(3) The executive arrangements must include provision which requires the executive leader to appoint one of the members of the executive to be his deputy (referred to in this paragraph as the deputy executive leader).

(4) Subject to sub-paragraph (5), the deputy executive leader, unless he resigns as deputy executive leader or ceases to be a member of the authority, is to hold office until the end of the term of office of the executive leader.

(5) The executive leader may, if he thinks fit, remove the deputy executive leader from office.

(6) Where a vacancy occurs in the office of deputy executive leader, the executive leader must appoint another person in his place.

(7) If for any reason the executive leader is unable to act or the office of executive leader is vacant, the deputy executive leader must act in his place.

(8) If for any reason—

(a) the executive leader is unable to act or the office of executive leader is vacant, and

(b) the deputy executive leader is unable to act or the office of deputy executive leader is vacant,

the executive must act in the executive leader's place or must arrange for a member of the executive to act in his place.

] ¹

Notes

¹ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.28 (December 30, 2007)

Extent

Sch. 1 para. 1A(1)-(8)(b): England, Wales

☑ Law In Force

[Leader and cabinet executives (Wales)]¹

2.—

- (1) This paragraph applies in relation to executive arrangements by a local authority which provide for a [leader and cabinet executive (Wales)]² .
- (2) The executive arrangements may include provision with respect to—
- (a) the election and term of office of the executive leader, and
 - (b) the appointment and term of office of members of the executive appointed under section 11(3)(b)(ii).
- (3) Subject to section 11(8), the executive arrangements must include provision which either—
- (a) enables the authority to determine the number of councillors who may be appointed to the executive under section 11(3)(b), or
 - (b) enables the executive leader to determine the number of councillors who may be so appointed.
- (4) Section 101 of the Local Government Act 1972 does not apply to the function of determining the number of councillors under [sub-paragraph (3)(a)]³ .

Notes

- ¹ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.29(1) (December 30, 2007)
- ² Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.29(3) (December 30, 2007)
- ³ Words substituted by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.3 para.29(4) (December 30, 2007)

Commencement

Sch. 1 para. 2(1)-(4): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(c))

Extent

Sch. 1 para. 2(1)-(4): England, Wales

☑ Law In Force

! Amendment(s) Pending

Mayor and council manager executives

3.—

- (1) This paragraph applies in relation to executive arrangements by a local authority which provide for a mayor and council manager executive.
- (2) The executive arrangements may include provision with respect to the appointment and term of office of the council manager.

(3) The executive arrangements must include provision which requires the elected mayor to appoint a member of the authority to be his deputy (referred to in this paragraph as the deputy mayor).

(4) The deputy mayor may not be—

- (a) the chairman or vice-chairman of the authority, nor
- (b) a member of an overview and scrutiny committee of the authority.

(5) Subject to sub-paragraph (6), the deputy mayor, unless he resigns as deputy mayor or ceases to be a member of the authority, is to hold office until the end of the term of office of the elected mayor.

(6) The elected mayor may, if he thinks fit, remove the deputy mayor from office.

(7) Where a vacancy occurs in the office of deputy mayor, the elected mayor must appoint another person in his place.

(8) If for any reason the elected mayor is unable to act or the office of elected mayor is vacant, the deputy mayor must act in his place.

(9) If for any reason—

- (a) the elected mayor is unable to act or the office of elected mayor is vacant, and
 - (b) the deputy mayor is unable to act or the office of deputy mayor is vacant,
- the council manager must act in the elected mayor's place.

(10) Subject to [sub-paragraphs (11) and (12A)]¹, the council manager—

- (a) is entitled to attend, and speak at, meetings of the authority or any committee or sub-committee of the authority, but
- (b) is not entitled to vote at such meetings.

(11) The council manager is entitled to attend, and speak at, meetings of an overview and scrutiny committee or sub-committee of the authority only if invited or required to do so by the committee or sub-committee.

(12) The reference in sub-paragraph (10) to a committee or sub-committee of the authority includes a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

[(12A) The council manager of a local authority is entitled to vote at a meeting of a joint committee, or sub-committee of such a committee, if—

- (a) that joint committee or sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of the executive of the local authority; and
- (b) the council manager is a member of that joint committee or sub-committee.

] ¹

(13) The council manager—

- (a) is to be regarded for the purposes of Part I of the Local Government and Housing Act 1989 as holding a politically restricted post under the authority,
- (b) may not also be the person who under section 151 of the Local Government Act 1972 has responsibility for the administration of the financial affairs of the authority, and
- (c) may not also be the person who is responsible for performing the duties of the authority's monitoring officer under section 5 of the Local Government and Housing Act 1989.

(14) The executive arrangements may include provision for the appointment by the elected mayor of one or more committees to advise the executive.

(15) The membership of any such committee as is mentioned in sub-paragraph (14) need not be determined in accordance with the political balance requirements.

(16) In the case of a local authority in Wales, the deputy mayor is entitled to the style of “dirprwy faer”. [...] ¹

Notes

¹ Modified by Local Authorities (Executive Arrangements) (Modification of Enactments and Further Provisions) (Wales) Order 2002/803 art.6(2) (April 1, 2002)

Amendments Pending

Sch. 1 para. 3: repealed by Local Government (Wales) Measure 2011 c. 04, Sch. 4(B) para. 1 (July 10, 2011)

Commencement

Sch. 1 para. 3(1)-(16): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(c))

Extent

Sch. 1 para. 3(1)-(16): England, Wales

Law In Force

Procedure

4.

Executive arrangements by a local authority may include provision with respect to—

- (a) the quorum, proceedings and location of meetings of the executive,
- (b) the appointment of committees of the executive, and
- (c) the quorum, proceedings and location of meetings of committees of the executive.

Commencement

Sch. 1 para. 4(a)-(c): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(c))

Extent

Sch. 1 para. 4(a)-(c): England, Wales

Law In Force

Meetings of executives and executive committees

5.

A member of a local authority who is not a member of the authority's executive is entitled to attend, and speak at, a meeting of the executive, or of a committee of the executive, which is held in private only if invited to do so.

Commencement

Sch. 1 para. 5: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt II s. 22; SI 2000/2849 art. 2(c))

Extent

Sch. 1 para. 5: England, Wales

Law In Force

Mayor's assistant

6.—

(1) The Secretary of State may by regulations make provision for or in connection with the appointment of a person (an “assistant”) to provide assistance to an elected mayor.

(2) Regulations under this paragraph may include provision with respect to the terms and conditions of appointment of an assistant.

(3) Nothing in sub-paragraph (2) affects the generality of the power under sub-paragraph (1).

Commencement

Sch. 1 para. 6(1)-(3): August 7, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2)

Extent

Sch. 1 para. 6(1)-(3): England, Wales

Overview and scrutiny committees: education functions

Law In Force

7.—

(1) In this paragraph “relevant English authority” means a local authority in England [which has education functions]¹.

(2) This paragraph applies to an overview and scrutiny committee of a relevant English authority if the committee's functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority's executive.

(3) This paragraph also applies to a sub-committee of an overview and scrutiny committee of a relevant English authority if the sub-committee's functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority's executive.

(4) In the case of a relevant English authority which maintain one or more Church of England schools, an overview and scrutiny committee or sub-committee to which this paragraph applies must include at least one qualifying person.

(5) A person is a qualifying person for the purposes of sub-paragraph (4) if he is nominated by the Diocesan Board of Education for any Church of England diocese which falls wholly or partly in the authority concerned's area.

(6) In the case of a relevant English authority which maintain one or more Roman Catholic Church schools, an overview and scrutiny committee or sub-committee to which this paragraph applies must include at least one qualifying person.

(7) A person is a qualifying person for the purposes of sub-paragraph (6) if he is nominated by the bishop of any Roman Catholic diocese which falls wholly or partly in the authority concerned's area.

(8) A member of an overview and scrutiny committee or sub-committee appointed by virtue of sub-paragraph (4) or (6) is to be entitled to vote at a meeting of the committee or sub-committee on any question—

- (a) which relates to any education functions which are the responsibility of the authority concerned's executive, and
- (b) which falls to be decided at the meeting.

(9) The Secretary of State may by directions to a relevant English authority require any of the authority's overview and scrutiny committees or sub-committees to which this paragraph applies to include persons who are appointed, in accordance with the directions, as representatives of the persons who appoint foundation governors for the foundation or voluntary schools maintained by the authority which are not Church of England schools or Roman Catholic Church schools but which are specified in the directions.

(10) Directions under sub-paragraph (9) may make provision with respect to the voting rights of persons appointed in accordance with such directions.

Notes

- ¹ Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.47(2) (May 5, 2010)

Commencement

Sch. 1 para. 7(1)-(10): August 7, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2)

Extent

Sch. 1 para. 7(1)-(10): England, Wales

✔ Law In Force

8.—

(1) In this paragraph “relevant Welsh authority” means a local authority in Wales [which has education functions]¹.

(2) This paragraph applies to an overview and scrutiny committee of a relevant Welsh authority if the committee's functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority's executive.

(3) This paragraph also applies to a sub-committee of an overview and scrutiny committee of a relevant Welsh authority if the sub-committee's functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority's executive.

(4) An overview and scrutiny committee or sub-committee to which this paragraph applies must include one or more persons appointed as representatives of the persons who appoint foundation governors for the maintained schools which are maintained by the authority concerned and which are specified in directions made by the National Assembly for Wales as schools which have a character connected with a particular religion, or particular religious denomination, specified in the directions.

(5) Sub-paragraph (4) does not apply if there are no maintained schools which are maintained by the authority concerned and which are specified in directions under that sub-paragraph.

(6) A member of an overview and scrutiny committee or sub-committee appointed by virtue of sub-paragraph (4) is to be entitled to vote at a meeting of the committee or sub-committee on any question—

- (a) which relates to any education functions which are the responsibility of the authority concerned's executive, and
- (b) which falls to be decided at the meeting.

(7) The National Assembly for Wales may by directions to a relevant Welsh authority require any of the authority's overview and scrutiny committees or sub-committees to which this paragraph applies to include persons who are appointed, in accordance with the directions, as representatives of the persons who appoint foundation governors for such of the maintained schools which are maintained by the authority concerned and which are not specified in directions under sub-paragraph (4) as may be specified in directions under this sub-paragraph.

(8) Directions under sub-paragraph (7) may make provision with respect to the voting rights of persons appointed in accordance with such directions.

Notes

¹ Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.47(2) (May 5, 2010)

Commencement

Sch. 1 para. 8(1)-(3), (6)-(7): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Sch. 1 para. 8(4)-(5), (8): November 1, 2000 in relation to Wales; July 28, 2001 otherwise (SI 2000/2948 art. 2)

Extent

Sch. 1 para. 8(1)-(8): England, Wales

✔ Law In Force

9.—

(1) In this paragraph “relevant authority” means a local authority [which has education functions]¹.

(2) This paragraph applies to an overview and scrutiny committee of a relevant authority if the committee's functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority's executive.

(3) This paragraph also applies to a sub-committee of an overview and scrutiny committee of a relevant authority if the sub-committee's functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority's executive.

(4) The Secretary of State may by regulations require an overview and scrutiny committee or sub-committee to which this paragraph applies to include one or more persons elected, in accordance with the regulations, as representatives of parent governors at maintained schools which are maintained by the relevant authority concerned.

(5) Regulations under this paragraph may make provision for—

- (a) the number of persons who are to be elected in the case of any relevant authority,
- (b) the procedure to be followed in connection with the election of such persons and the persons who are entitled to vote at such an election,
- (c) the circumstances in which persons are qualified or disqualified for being so elected or for holding office once elected,
- (d) the term of office of persons so elected and their voting rights,
- (e) the application to any such committee or sub-committee, with or without any modification, of any enactment (whenever passed or made) relating to committees or (as the case may be) sub-committees of a local authority,
- (f) such other matters connected with such elections or persons so elected as the Secretary of State considers appropriate.

(6) Regulations under this paragraph may also make provision—

- (a) enabling the Secretary of State to determine, where he considers it expedient to do so in view of the small number of maintained schools which are maintained by a relevant authority, that the requirement imposed on the committee or sub-committee by virtue of sub-paragraph (4) is to have effect as if it referred to representatives of parents of registered pupils (rather than representatives of parent governors) at those schools,
- (b) for any regulations under this paragraph to have effect, where the Secretary of State makes any such determination, with such modifications as may be prescribed.

Notes

¹ Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.47(2) (May 5, 2010)

Commencement

Sch. 1 para. 9(1)-(3): August 7, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2)

Sch. 1 para. 9(4)-(6)(b): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Sch. 1 para. 9(1)-(6)(b): England, Wales

Law In Force

10.

The following provisions of the Education Act 1996, namely–

- (a) section 496 (powers of Secretary of State to require duties under that Act to be exercised reasonably), and
 - (b) section 497 (powers of Secretary of State where [local authorities]¹ etc. are in default),
- are to apply to the performance of any duty imposed on a local authority by virtue of paragraph 7, 8 or 9 as they apply to the performance by a [local authority]² of a duty imposed by that Act.

Notes

¹ Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.47(3)(a) (May 5, 2010)

² Words substituted by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.47(3)(b) (May 5, 2010)

Commencement

Sch. 1 para. 10(a)-(b): August 7, 2000 in relation to England; November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Sch. 1 para. 10(a)-(b): England, Wales

Law In Force

11.

Except for the expression “local authority”, expressions used in paragraphs 7 to 10 and the School Standards and Framework Act 1998 have the same meaning in those paragraphs as in that Act.

Commencement

Sch. 1 para. 11: August 7, 2000 in relation to England; November 1, 2000 in relation to Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2948 art. 2)

Extent

Sch. 1 para. 11: England, Wales

Law In Force

[11A.

In paragraphs 7 to 9 “education functions” has the meaning given by section 579(1) of the Education Act 1996.

]¹

Notes

- ¹ Added by Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010/1158 Sch.2(2) para.47(4) (May 5, 2010)

Extent

Sch. 1 para. 11A: England, Wales

[Overview and scrutiny committees: voting rights of co-opted members]¹

Notes

- ¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.115 (November 18, 2003)
-

Law In Force

[12

(1) A local authority in England may permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee.

(2) Permission under sub-paragraph (1) may only be given in accordance with a scheme made by the local authority.

(3) A scheme for the purposes of this paragraph may include—

- (a) provision for a maximum or minimum in relation to the number of co-opted members of an overview and scrutiny committee entitled to vote at meetings of the committee, and
- (b) provision for giving effect to any maximum or minimum established under paragraph (a).

(4) The power to make a scheme for the purposes of this paragraph includes power to vary or revoke such a scheme.

(5) In this paragraph, references to a co-opted member, in relation to an overview and scrutiny committee of a local authority, are to a member of the committee who is not a member of the authority.

] ¹

Notes

- ¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.115 (November 18, 2003)

Extent

Sch. 1 para. 12(1)-(5): England, Wales

✔ Law In Force

[13

(1) The Secretary of State may by regulations make provision about the exercise of the powers under paragraph 12.

(2) Regulations under sub-paragraph (1) may, in particular, require schemes for the purposes of paragraph 12 (“voting rights schemes”)—

(a) to provide for permission to be given only by means of approving a proposal by the committee concerned;

(b) to provide for a proposal for the purposes of the scheme (“a scheme proposal”) to specify—

(i) the person to whom the proposal relates,

(ii) the questions on which it is proposed he should be entitled to vote, and

(iii) the proposed duration of his entitlement to vote,

and to include such other provision about the form and content of such a proposal as the regulations may provide;

(c) to provide for a scheme proposal to be made only in accordance with a published statement of the policy of the committee concerned about the making of such proposals;

(d) to include such provision about the procedure to be followed in relation to the approval of scheme proposals as the regulations may provide.

(3) Regulations under sub-paragraph (1) may include provision for the notification to the Secretary of State by local authorities of the making, variation or revocation of voting rights schemes.

(4) The Secretary of State may by direction require a local authority to vary a voting rights scheme.
] ¹

Notes

¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.115 (November 18, 2003)

Extent

Sch. 1 para. 13(1)-(4): England, Wales

✔ Law In Force

[14

(1) A local authority which makes a scheme for the purposes of paragraph 12 shall, while the scheme is in force, make copies of it available at its principal office at all reasonable hours for inspection by members of the public.

(2) If a local authority makes a scheme for the purposes of paragraph 12, or varies or revokes such a scheme, it must as soon as reasonably practicable after doing so publish in one or more newspapers circulating in its area a notice which complies with this paragraph.

(3) In the case of the making of a scheme, the notice under sub-paragraph (2) shall—

(a) record the making of the scheme,

(b) describe what it does,

(c) state that copies of it are available for inspection at the principal office of the local authority, and

- (d) specify—
- (i) the address of that office, and
 - (ii) the times when the scheme is available for inspection there.
- (4) In the case of the variation of a scheme, the notice under sub-paragraph (2) shall—
- (a) record the variation,
 - (b) describe what it does,
 - (c) state that copies of the scheme as varied are available for inspection at the principal office of the local authority, and
 - (d) specify—
 - (i) the address of that office, and
 - (ii) the times when the scheme is available for inspection there.
- (5) In the case of the revocation of a scheme, the notice under sub-paragraph (2) shall record the revocation.
-] ¹

Notes

¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.115 (November 18, 2003)

Extent

Sch. 1 para. 14(1)-(5): England, Wales

SCHEDULE 2**ELECTION OF ELECTED MAYOR**

Law In Force

Application**1.**


This Schedule applies where there are three or more candidates to be an elected mayor of a local authority.

Commencement

Sch. 2 para. 1: July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Sch. 2 para. 1: England, Wales

 Law In Force

Candidate with overall majority of first preference votes

2.


If one of the candidates to be the elected mayor receives more than half of all the first preference votes given in the election that candidate is to be returned as the elected mayor.

Commencement

Sch. 2 para. 2: July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Sch. 2 para. 2: England, Wales

 Law In Force

No candidate with overall majority of first preference votes

3.—

(1) If none of the candidates to be the elected mayor receives more than half of all the first preference votes given in the election the following provisions of this paragraph are to have effect.

(2) The two candidates who received the greatest number of first preference votes given in the election remain in the contest.

(3) If, by reason of an equality of first preference votes, three or more candidates are qualified to remain in the contest by virtue of sub-paragraph (2), all of them remain in the contest.

(4) The other candidates are eliminated from the contest.

(5) The number of second preference votes given in the election for each of the candidates remaining in the contest by voters who did not give their first preference vote to any of those candidates is to be ascertained.

(6) That number is to be added to the number of first preference votes given for that candidate, to give his total number of preference votes.

(7) The person who is to be returned as the elected mayor is that one of the candidates remaining in the contest who has the greatest total number of preference votes.

(8) If, by reason of an equality of total number of preference votes, two or more candidates remaining in the contest each have the greatest total number of preference votes, the returning officer is to decide by lots which of them is to be returned as the elected mayor.

Commencement

Sch. 2 para. 3(1)-(8): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Sch. 2 para. 3(1)-(8): England, Wales

SCHEDULE 3

AMENDMENTS TO THE 1972 ACT

Law In Force

1.—

(1) Section 2 of the Local Government Act 1972 (constitution of principal councils in England) is amended as follows.

(2) After subsection (2) there is inserted—

“(2A) Where a council mentioned in subsection (1) or (2) above are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, the council shall consist of an elected mayor, a chairman and councillors.”

Commencement

Sch. 3 para. 1(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 1(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 1(1)-(2): England, Wales

Law In Force

2.—

(1) Section 3 of that Act (chairman of principal council in England) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) A member of the executive of a principal council may not be elected as the chairman of the council.”

(3) After subsection (4) there is inserted—

“(4A) Subsection (4) above shall have effect in relation to a district council which are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive as if it provided for the elected mayor of the council to have precedence in the district, but this subsection shall not apply if the executive arrangements provide for it not to apply.”

Commencement

Sch. 3 para. 2(1)-(3): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Extent

Sch. 3 para. 2(1)-(3): England, Wales

Law In Force

3.—

(1) Section 5 of that Act (vice-chairman of principal council in England) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) A member of the executive of a principal council may not be appointed as the vice-chairman of the council.”

Commencement

Sch. 3 para. 3(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 3(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 3(1)-(2): England, Wales

Law In Force

4.—

(1) Section 21 of that Act (constitution of principal councils in Wales) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) Where a council falling within subsection (1) are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, the council shall consist of an elected mayor, a chairman and councillors.”

Commencement

Sch. 3 para. 4(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 4(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 4(1)-(2): England, Wales

Law In Force

5.—

(1) Section 22 of that Act (chairman of principal council in Wales) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) A member of the executive of a principal council may not be elected as the chairman of the council.”

(3) After subsection (4) there is inserted—

“(4A) Subsection (4) above shall have effect in relation to a principal council which are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive as if it provided for the elected mayor of the council to have precedence in the area of that council, but this subsection shall not apply if the executive arrangements provide for it not to apply.”

Commencement

Sch. 3 para. 5(1)-(3): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Extent

Sch. 3 para. 5(1)-(3): England, Wales

Law In Force

6.—

(1) Section 24 of that Act (vice-chairman of principal council in Wales) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) A member of the executive of a principal council may not be appointed as the vice-chairman of the council.”

Commencement

Sch. 3 para. 6(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 6(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 6(1)-(2): England, Wales

Law In Force

7.—

(1) Section 25A of that Act (title of chairman or vice-chairman of county borough council) is amended as follows.

(2) After subsection (2) there is inserted—

“(3) This section does not apply where a county borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive.”

Commencement

Sch. 3 para. 7(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 7(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 7(1)-(2): England, Wales

Law In Force

8.—

(1) Section 80 of that Act (disqualifications for election and holding office as member of local authority) is amended as follows.

(2) In subsection (1)(a) after “or deputy chairman” there is inserted “or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive”.

Commencement

Sch. 3 para. 8(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 8(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 8(1)-(2): England, Wales

Law In Force

9.—

(1) Section 83 of that Act (declaration of acceptance of office) is amended as follows.

(2) In subsection (1), after “councillor” there is inserted “or elected mayor”.

(3) In subsection (3), after paragraph (a) there is inserted—

“(aa) an elected mayor of the council to which the declarant is elected; or”.

Commencement

Sch. 3 para. 9(1)-(3): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Extent

Sch. 3 para. 9(1)-(3): England, Wales

Law In Force

10.—

(1) Section 84 of that Act (resignation) is amended as follows.

(2) In subsection (1), after “Act” there is inserted “or elected as an elected mayor”.

Commencement

Sch. 3 para. 10(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 10(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 10(1)-(2): England, Wales

Law In Force

11.—

(1) Section 245 of that Act (status of certain districts, parishes and communities) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) Subsection (1)(b) above does not apply where the council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive.”

Commencement

Sch. 3 para. 11(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 11(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 11(1)-(2): England, Wales

✔ Law In Force

12.—

(1) Section 270 of that Act (general provisions as to interpretation) is amended as follows.

(2) In subsection (1), after the definition of “Easter break” there is inserted—

““elected mayor” has the same meaning as in Part II of the Local Government Act 2000;”.

(3) In subsection (1), after the definition of “electoral area” there is inserted—

““executive” , “executive arrangements” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000;”.

(4) In subsection (1), after the definition of “land” there is inserted—

““leader and cabinet executive” has the same meaning as in Part II of the Local Government Act 2000;”.

(5) In subsection (1), after the definition of “local statutory provision” there is inserted—

““mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000;”.

(6) After subsection (4) there is inserted—

“(4A) Where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, subsection (4) above shall have effect with the omission of paragraphs (a) and (b).”

Commencement

Sch. 3 para. 12(1)-(6): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Extent

Sch. 3 para. 12(1)-(6): England, Wales

✔ Law In Force

13.—

(1) Schedule 2 to that Act (constitution and membership of London borough councils) is amended as follows.

(2) After paragraph 5 there is inserted—

“Modifications of preceding provisions

5A.

Where a London borough council are operating executive arrangements which involve a leader and cabinet executive—

(a) paragraph 2 above shall have effect as if the following sub-paragraph were inserted after sub-paragraph (1)—

“(1A) A member of the executive of a London borough council may not be elected as the mayor of the borough.”,

(b) paragraph 5 above shall have effect as if the following sub-paragraph were inserted after sub-paragraph (1)—

“(1A) A member of the executive of a London borough council may not be appointed as the deputy mayor.”

5B.

Where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, the preceding provisions of this Schedule shall have effect with the modifications specified in paragraphs 5C to 5I below.

5C.

The council shall consist of an elected mayor, a chairman and councillors.

5D.

Paragraphs 2(1) and 2(5) above shall have effect as if for the expression “mayor of a London borough” there were substituted “chairman of a London borough council”.

5E.

Paragraph 2 above shall have effect as if the following sub-paragraph were inserted after sub-paragraph (1)—

“(1A) A member of the executive of a London borough council may not be elected as the chairman of the council.”

5F.

Paragraphs 2(2) to (4) and 3 above shall have effect as if for any reference to “mayor” there were substituted “chairman”.

5G.

Paragraph 2(5) above shall have effect as if it provided for the elected mayor to have precedence in the borough, but this paragraph shall not apply if the executive arrangements provide for it not to apply.

5H.

Paragraph 5 above shall have effect as if for sub-paragraphs (1) to (3) there were substituted—

“(1) A London borough council shall appoint a member of the council to be vice-chairman of the council.

(1A) A member of the executive of a London borough council may not be appointed as the vice-chairman of the council.

(2) The vice-chairman shall, unless he resigns or becomes disqualified, hold office until immediately after the election of a chairman at the next annual meeting of the council and during that time shall continue to be a member of the council notwithstanding the provisions of this Schedule relating to the retirement of councillors.

(3) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chairman may be done by, to or before the vice-chairman.”

5I.

Paragraph 5(4) above shall have effect as if for the expression “deputy mayor” there were substituted “vice-chairman.”

Commencement

Sch. 3 para. 13(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 13(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 13(1)-(2): England, Wales

Law In Force

14.—

(1) Schedule 12 to that Act (meetings and proceedings of local authorities) is amended as follows.

(2) In paragraph 5, after sub-paragraph (3) there is inserted—

“(4) A member of an executive of a principal council may not be chosen to preside under sub-paragraph (3) above.

(5) Sub-paragraphs (2)(c) and (3)(c) above do not apply where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive.”

Commencement

Sch. 3 para. 14(1): October 26, 2000 in relation to England; July 28, 2001 in relation to Wales (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(e))

Sch. 3 para. 14(2): October 26, 2000 in relation to England; July 28, 2001 otherwise

Extent

Sch. 3 para. 14(1)-(2): England, Wales

SCHEDULE 4

STANDARDS BOARD FOR ENGLAND

Law In Force

Status

1.—

(1) The Standards Board for England (referred to in this Schedule as the Standards Board) is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

(2) The members and employees of the Standards Board are not to be regarded as civil servants and the property of the Board is not to be regarded as property of, or held on behalf of, the Crown.

Commencement

Sch. 4 para. 1(1)-(2): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 1(1)-(2): England, Wales

Law In Force

General powers

2.—

(1) The Standards Board may do such things and enter into such transactions as are calculated to facilitate, or are incidental or conducive to, the exercise of—

- (a) the functions of the Board,
- (b) the functions of its ethical standards officers, [...]¹

- (c) the functions of the [First-tier Tribunal under this Act,]²
 [(d) the functions of the standards committee of a relevant authority in England, or
 (e) the functions of the monitoring officer of a relevant authority in England.]³

(2) The power under sub-paragraph (1) includes power to acquire and dispose of land.

(3) Nothing in sub-paragraph (2) affects the generality of the power under sub-paragraph (1).

Notes

¹ Word repealed subject to savings specified in SI 2008/172 art.2(2) by Local Government and Public Involvement in Health Act 2007 c. 28 Sch.18(15) para.1 (January 31, 2008: repeal has effect on January 31, 2008 as specified in SI 2008/172 art.2(1)(u)(ii) subject to savings specified in art.2(2))

² Words substituted by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.65(a) (January 18, 2010)

³ Added by Local Government and Public Involvement in Health Act 2007 c. 28 Pt 10 c.1 s.190(2)(b) (January 31, 2008)

Commencement

Sch. 4 para. 2(1)-(3): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 2(1)-(3): England, Wales

Law In Force

Disqualifications

3.—

(1) A person is to be disqualified for being appointed as, or for being, a member of the Standards Board if he is disqualified for being, or becoming (whether by election or otherwise), a member of a local authority or a member of a relevant authority.

(2) A person may not be employed as an ethical standards officer if—

- (a) he is disqualified for being, or becoming (whether by election or otherwise), a member of a local authority or a member of a relevant authority,
- (b) he is a member or an officer of a relevant authority, or
- (c) he is a member of a committee, sub-committee, joint committee or joint sub-committee of a relevant authority.

(3) An ethical standards officer is to be treated as being in breach of the terms of his employment if—

- (a) he becomes disqualified for being, or becoming (whether by election or otherwise), a member of a local authority or a member of a relevant authority,
- (b) he becomes a member or an officer of a relevant authority, or
- (c) he becomes a member of a committee, sub-committee, joint committee or joint sub-committee of a relevant authority.

(4) In this paragraph “local authority” has the meaning given by section 270(1) of the Local Government Act 1972.

Commencement

Sch. 4 para. 3(1)-(4): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 3(1)-(4): England, Wales

Law In Force

Chairman and deputy chairman**4.**

The Secretary of State must appoint one of the members of the Standards Board to be chairman and another to be deputy chairman.

Commencement

Sch. 4 para. 4: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 4: England, Wales

Law In Force

Tenure of office**5.—**

(1) Subject to the provisions of this paragraph, a person is to hold and vacate office as chairman, deputy chairman or member of the Standards Board in accordance with the terms of his appointment.

(2) A chairman, deputy chairman or member of the Standards Board may at any time resign his office by notice in writing addressed to the Secretary of State.

(3) The Secretary of State may remove a chairman, deputy chairman or member of the Standards Board from office if the Secretary of State considers—

- (a) that that person is unable or unfit to discharge the functions of his office, or
- (b) that the person has not complied with the terms of his appointment.

(4) If a chairman or deputy chairman of the Standards Board ceases to be a member of the Board he is also to cease to be chairman or deputy chairman.

(5) A person who ceases, otherwise than by virtue of sub-paragraph (3), to be a chairman, deputy chairman or member of the Standards Board is to be eligible for re-appointment.

Commencement

Sch. 4 para. 5(1)-(5): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 5(1)-(5): England, Wales

Law In Force

Employees**6.—**

(1) Subject to sub-paragraph (2), the Standards Board may appoint a chief executive but any such appointment requires the consent of the Secretary of State.

(2) The first appointment to the position of chief executive may be made by the Secretary of State after consultation with the chairman (or chairman designate) of the Standards Board.

(3) The Standards Board may, in addition to appointing a chief executive and ethical standards officers, appoint such employees as it considers necessary for the purpose of enabling the Board and its ethical standards officers to exercise their functions.

(4)-(5) [...]¹

(6) Subject to paragraph 7, employees of the Standards Board are to be appointed on such terms and conditions of service as the Board, with the approval of the Secretary of State, thinks fit.

Notes

¹ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.65(b) (January 18, 2010)

Commencement

Sch. 4 para. 6(1)-(6): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 6(1)-(6): England, Wales

Remuneration etc.

Law In Force

7.—

(1) The Standards Board may pay to—

- (a) any member of the Board such remuneration or allowances (if any) as the Secretary of State may determine,

(b) any employee of the Board such remuneration or allowances as the Secretary of State may determine.

(2) The Standards Board may—

- (a) pay such pensions, allowances or gratuities as the Secretary of State may determine to or in respect of any persons who have been or are members or employees of the Board,
- (b) make such payments as the Secretary of State may determine towards the provision of pensions, allowances or gratuities to or in respect of any such persons,
- (c) provide and maintain such schemes (whether contributory or not) as the Secretary of State may determine for the payment of pensions, allowances or gratuities to or in respect of any such persons.

(3) Any reference in sub-paragraph (2) to pensions, allowances or gratuities to or in respect of any persons who have been or are members or employees of the Standards Board includes pensions, allowances or gratuities by way of compensation to or in respect of any members or employees of the Board who cease to hold office or suffer loss of office or employment.

Commencement

Sch. 4 para. 7(1)-(3): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 7(1)-(3): England, Wales

■ Repealed

8. [...]¹

Notes

¹ Repealed by Transfer of Tribunal Functions Order 2010/22 Sch.2 para.65(c) (January 18, 2010)

Proceedings

■ Law In Force

9.—

(1) The Standards Board may regulate its own procedure (and in particular may specify a quorum for meetings).

(2) The validity of any proceedings of the Standards Board is not to be affected—

- (a) by any vacancy among its members or in the office of chairman or deputy chairman,
- (b) by any defect in the appointment of any person as chairman, deputy chairman or member, or
- (c) by a contravention of paragraph 3 or 10.

Commencement

Sch. 4 para. 9(1)-(2)(c): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 9(1)-(2)(c): England, Wales

Law In Force

[9A Delegation

The Standards Board may delegate any of its functions to—

- (a) a committee or sub-committee established by the Board,
- (b) an individual member of the Board, or
- (c) an officer or servant of the Board.

] ¹

Notes

¹ Added by Local Government Act 2003 c. 26 Pt 8 c.1 s.112 (November 18, 2003)

Extent

Sch. 4 para. 9A(a)-(c): England, Wales

Members' interests

Law In Force

10.—

(1) A member of the Standards Board who is directly or indirectly interested in any matter brought up for consideration at a meeting of the Board—

- (a) must disclose the nature of his interest to the meeting, and
- (b) must not take part in any deliberation or decision of the Board with respect to that matter.

(2) A member is taken to be interested under sub-paragraph (1), in particular, where the matter being considered is a failure to comply with the code of conduct of a relevant authority and he is, or has been—

- (a) a member or officer of that authority, or
- (b) a member of a committee, sub-committee, joint committee or joint sub-committee of that authority.

Commencement

Sch. 4 para. 10(1)-(2)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 10(1)-(2)(b): England, Wales

Law of defamation

Law In Force

11.

For the purposes of the law of defamation, any statement (whether written or oral) made by an ethical standards officer in connection with the exercise of his functions shall be absolutely privileged.

Commencement

Sch. 4 para. 11: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 11: England, Wales

Finance

Law In Force

12.—

(1) The Secretary of State must pay to the Standards Board in respect of each financial year such amount as he determines to be the amount required—

- (a) for the performance during that year of the functions of the Board, and
- (b) for the performance during that year of the functions of its ethical standards officers.

(2) Any determination under sub-paragraph (1) requires the approval of the Treasury.

(3) In this paragraph “financial year” means –

- (a) the period beginning with the date on which the Standards Board is established and ending with the next 31st March following that date, and
- (b) each successive period of twelve months ending with 31st March.

Commencement

Sch. 4 para. 12(1)-(3)(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 12(1)-(3)(b): England, Wales

Accounts

Law In Force

13.—

(1) The Standards Board must—

- (a) keep proper accounts and records in relation to the accounts, and
- (b) prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.

(2) The accounts of the Standards Board [in respect of financial years ending on or before 31st March 2004]¹ must be audited by persons appointed for the purpose for each [such]² financial year by the Secretary of State.

(3) A copy of any accounts of the Standards Board audited under sub-paragraph (2), and of the report made on those accounts by the persons appointed to audit them, must be sent to the Secretary of State as soon as reasonably practicable after the report is received by the Board.

(4) The Secretary of State must lay before Parliament a copy of any accounts or report sent to him under sub-paragraph (3).

[(4A) The Standards Board must send to the Comptroller and Auditor General a copy of the statement of accounts prepared under sub-paragraph (1) in respect of each financial year ending on or after 31st March 2005 as soon as reasonably practicable after the end of the financial year to which the statement relates.

(4B) The Comptroller and Auditor General must examine, certify and report on each statement of accounts sent to him by the Board under sub-paragraph (4A) and must lay a copy of the statement and his report on it before each House of Parliament.]³

(5) In this paragraph “financial year” has the meaning given by paragraph 12(3).

Notes

¹ Words inserted by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003/1326 art.20(2)(a) (May 23, 2003)

² Word inserted by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003/1326 art.20(2)(b) (May 23, 2003)

³ Added by Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2003/1326 art.20(3) (May 23, 2003)

Commencement

Sch. 4 para. 13(1)-(5): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 13(1)-(5): England, Wales

Annual report

Law In Force

14.—

(1) As soon as possible after the end of each financial year the Standards Board must publish a report on the discharge of its functions during that year.

(2) The Standards Board must send a copy of each annual report to the Secretary of State who must lay a copy of the report before each House of Parliament.

(3) In this paragraph “financial year” has the meaning given by paragraph 12(3).

Commencement

Sch. 4 para. 14(1)-(3): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 14(1)-(3): England, Wales

Application of seal and evidence

Law In Force

15.

The application of the seal of the Standards Board is to be authenticated by the signature—

(a) of the chairman, or

(b) of some other member who has been authorised by the Board (whether generally or specially) for that purpose.

Commencement

Sch. 4 para. 15(a)-(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 15(a)-(b): England, Wales

Law In Force

16.

A document purporting to be duly executed under the seal of the Standards Board or to be signed on its behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.

Commencement

Sch. 4 para. 16: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 16: England, Wales

Parliamentary Commissioner

Law In Force

17.

In Schedule 2 to the Parliamentary Commissioner Act 1967 (department etc subject to investigation) the following entry is inserted at the appropriate place—

“Standards Board for England.”

Commencement

Sch. 4 para. 17: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 17: United Kingdom

Parliamentary disqualification

Law In Force

18.—

(1) In the House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified) the following entry is inserted at the appropriate place—

“The Standards Board for England.”

(2) The same entry is inserted at the appropriate place in Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

Commencement

Sch. 4 para. 18(1)-(2): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 4 para. 18(1)-(2): United Kingdom

SCHEDULE 5**MINOR AND CONSEQUENTIAL AMENDMENTS***Children and Young Persons Act 1933 (c. 12)*

Law In Force

1.

In section 34A of the Children and Young Persons Act 1933 (attendance at court of parent or guardian), in subsection (2)(b) for the words “stand referred to their social services committee under” there is substituted “are social services functions within the meaning of”.

Commencement

Sch. 5 para. 1: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 1: England, Wales

Law In Force

2.

In section 55 of that Act (power to order parent or guardian to pay fine etc), in subsection (5)(b) for the words “stand referred to their social services committee under” there is substituted “are social services functions within the meaning of”.

Commencement

Sch. 5 para. 2: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 2: England, Wales

Local Authority Social Services Act 1970 (c. 42)

Law In Force

3.

In section 2 of the Local Authority Social Services Act 1970 (local authority to establish social services committees)–

- (a) in subsection (1), for paragraphs (a) and (b) there is substituted “their social services functions”,
- (b) subsection (2) is omitted.

Commencement

Sch. 5 para. 3(a)-(b): October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 3(a)-(b): England, Wales

Law In Force

4.

In section 3 of that Act (business of social services committee), in subsection (1), the words “(hereafter in this Act referred to as “social services functions”)” are omitted.

Commencement

Sch. 5 para. 4: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 4: England, Wales

Law In Force

5.

In section 13 of that Act (orders and regulations), in subsection (3), for “2(2)” there is substituted “1A”.

Commencement

Sch. 5 para. 5: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 5: England, Wales

✔ Law In Force

6.

In section 15 of that Act (citation, interpretation etc), in subsection (2), for “3” there is substituted “1A”.

Commencement

Sch. 5 para. 6: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 6: England, Wales

✔ Law In Force

7.

In Schedule 1 to that Act (enactments conferring functions assigned to social services committees) after the entry relating to the Housing Act 1985 there is inserted–

“Disabled Persons (Services, Consultation and Representation) Act 1986
(c. 33)

Sections 1 to 5, 7 and 8 except in so far as they assign functions to a
local authority in their capacity as a local education authority.

Representation and assessment of
disabled persons.”

Commencement

Sch. 5 para. 7: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 7: England, Wales

Local Government Act 1972 (c. 70)

✘ Not Yet In Force

8.

In section 80 of the Local Government Act 1972 (disqualifications for election and holding office as member of local authority), in subsection (1)(e) the words “or under the Audit Commission Act 1998” are omitted.

Commencement

Sch. 5 para. 8: Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 8: England, Wales

Law In Force

9.

In section 85 of that Act (vacation of office by failure to attend meetings), after subsection (3) there is inserted–

“(3A) Any period during which a member of a local authority is suspended or partially suspended under section 66, 73, 78 or 79 of the Local Government Act 2000 shall be disregarded for the purpose of calculating the period of six consecutive months under subsection (1) above (and, accordingly, a period during which a member fails to attend meetings of the authority that falls immediately before, and another such period that falls immediately after, a period of suspension or partial suspension shall be treated as consecutive).”

Commencement

Sch. 5 para. 9: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 in relation to Wales otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 5 para. 9: England, Wales

Law In Force

10.

In section 86 of that Act (declaration by local authority of vacancy in office in certain cases), in subsection (1)(b) after “1998” there is inserted “or section 79 of the Local Government Act 2000”.

Commencement

Sch. 5 para. 10: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 in relation to Wales otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 5 para. 10: England, Wales

Law In Force

11.

In section 87(1) of that Act (date of casual vacancies)–

(a) after paragraph (e) there is inserted–

“(ee) in the case of a disqualification under section 79 of the Local Government Act 2000, on the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant decision under that section or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;”

(b) in paragraph (f), for “(e)” there is substituted “(ee)”.

Commencement

Sch. 5 para. 11(a)-(b): December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 in relation to Wales otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 5 para. 11(a)-(b): England, Wales

N Not Yet In Force

12.

Sections 94 to 98 of that Act (restrictions on voting) cease to have effect.

Commencement

Sch. 5 para. 12: Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 12: England, Wales

N Not Yet In Force

13.

Section 105 of that Act (disability for voting on account of interest in contracts etc) ceases to have effect.

Commencement

Sch. 5 para. 13: Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 13: England, Wales

Local Government Act 1974 (c. 7)

R Repealed

14. [...]¹**Notes**

¹ Repealed by Fire and Rescue Services Act 2004 c. 21 Sch.2 para.1 (November 10, 2004 as SI 2004/2917)

N Not Yet In Force

15.

In section 30 of that Act (reports on investigation by Local Commissioner)–

(a) in subsection (3), the words “except where subsection (3A) below applies” are omitted,

(b) subsection (3A) is omitted.

Commencement

Sch. 5 para. 15(a)-(b): Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 15(a)-(b): England, Wales

Adoption Act 1976 (c. 36)

R Repealed

16. [...]¹

Notes

¹ Repealed by Adoption and Children Act 2002 c. 38 Sch.5 para.1 (December 30, 2005 as SI 2005/2897)

National Health Service Act 1977 (c. 49)

R Repealed

17. [...]¹

Notes

¹ Repealed by National Health Service (Consequential Provisions) Act 2006 c. 43 Sch.4 para.1 (March 1, 2007 except for repeals specified in 2006 c.43 s.8; April 22, 2008 for repeals brought into force on the commencement of 2006 c.28 Part 4 Chapter 3 by SI 2008/1147 art.3(a); August 1, 2008 for repeals brought into force on the commencement of 2006 c.28 ss 37-42 by SI 2008/1972 art.2(a); August 1, 2008 for repeals brought into force on the commencement of 2006 c.28 Sch.8 paras 6-23, 24, 25, 29, 32-34, 45, 46 and 50 by SI 2008/1972 art.2(b); not yet in force otherwise)

Registered Homes Act 1984 (c. 23)

✓ Law In Force

18.

In its application to a registration authority which are operating executive arrangements (within the meaning of Part II of this Act), section 13 of the Registered Homes Act 1984 (right to make representations) shall have effect as if for subsection (5) there were substituted–

“(5) If he informs the registration authority that he desires to make oral representations, they shall make arrangements to enable him to make such representations.”

Commencement

Sch. 5 para. 18: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2187 art. 2; SI 2000/2849 art. 2)

Extent

Sch. 5 para. 18: England, Wales

Children Act 1989 (c. 41)

Law In Force

19.

In section 22 of the Children Act 1989 (general duty of local authority in relation to children looked after by them), in subsection (1)(b) for the words “stand referred to their social services committee under” there is substituted “are social services functions within the meaning of”.

Commencement

Sch. 5 para. 19: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 19: England, Wales

Law In Force

20.

In section 42 of that Act (right of guardian ad litem to have access to local authority records), in subsection (1)(b) for the words “stand referred to their social services committee under” there is substituted “are social services functions within the meaning of”.

Commencement

Sch. 5 para. 20: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 20: England, Wales

Repealed

21. [...] ¹**Notes**

¹ Repealed by Inquiries Act 2005 c. 12 Sch.3 para.1 (June 7, 2005)

Law In Force

22.

In section 105 of that Act (interpretation), in subsection (5) for the words “which stand referred to the social services committee of that or any other local authority under” there is substituted “of that or any other local authority which are social services functions within the meaning of”.

Commencement

Sch. 5 para. 22: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 22: England, Wales

Law In Force

23.

In its application to a local authority (within the meaning of Schedule 6 to that Act) which are operating executive arrangements (within the meaning of Part II of this Act), paragraph 6 of that Schedule (right to make representations) shall have effect as if for subsection (5) there were substituted—

“(5) If he informs the local authority that he desires to make oral representations, they shall make arrangements to enable him to make such representations.”

Commencement

Sch. 5 para. 23: October 26, 2000 in relation to England; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 23: England, Wales

Local Government and Housing 1989 (c. 42)

Law In Force

24.—

(1) Section 5 of the Local Government and Housing Act 1989 (designation and reports of monitoring officer) is amended as follows.

(2) In subsection (1), before “the officer so” there is inserted “subject to subsection (1A) below”.

(3) After that subsection there is inserted—

“(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority's paid service.

(1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Greater London Authority, and
- (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.”

(4) In subsection (2), the words “or of any code of practice made or approved by or under any enactment” are omitted.

(5) In subsection (2), as substituted in relation to the Greater London Authority by section 73(6) of the Greater London Authority Act 1999, in paragraph (a) the words “or of any code of practice made or approved by or under any enactment” are omitted.

(6) After that subsection there is inserted—

“(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.”

(7) In subsection (8), in paragraph (a) of the definition of “relevant authority”, for “(j)” there is substituted “(k)”.

(8) After that subsection there is inserted—

“(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.”

Commencement

Sch. 5 para. 24(1)-(8): July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Sch. 5 para. 24(1)-(8): England, Wales

N Not Yet In Force

25.

Section 19 of that Act (members' interests) ceases to have effect.

Commencement

Sch. 5 para. 25: Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 25: England, Wales

 Not Yet In Force

26.


Section 31 and 32(1) of that Act (National Code of Local Government Conduct) are omitted.

Commencement

Sch. 5 para. 26: Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 26: England, Wales

 Law In Force

27.

Section 33 to 35 of that Act (economic development and discretionary expenditure by local authorities) cease to have effect.


Commencement

Sch. 5 para. 27: July 28, 2001 (2000 c. 22 Pt VI s. 108(4))

Extent

Sch. 5 para. 27: England, Wales

Tribunals and Inquiries Act 1992 (c. 53)

 Law In Force

28.

In Part I of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals), at the end of paragraph 27 there is inserted—

“27A. Local authorities, conduct of members

A case tribunal or interim case tribunal appointed under section 76 of the Local Government Act 2000.”

Commencement

Sch. 5 para. 28: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 5 para. 28: United Kingdom

Audit Commission Act 1998 (c. 18)

R Repealed

29. [...]¹**Notes**

¹ Repealed by Health and Social Care (Community Health and Standards) Act 2003 c. 43 Sch.14(2) para.1 (April 1, 2004 as SI 2004/759)

✓ Law In Force

30.

In section 49 of that Act (restriction on disclosure of information), after subsection (1)(d) there is inserted–

“(dd) for the purposes of the functions of an ethical standards officer or a Local Commissioner in Wales under Part III of the Local Government Act 2000”.

Commencement

Sch. 5 para. 30: December 19, 2000 in relation to England and police authorities in Wales; July 28, 2001 otherwise (2000 c. 22 Pt VI s. 108(4); SI 2000/3335 art. 2)

Extent

Sch. 5 para. 30: England, Wales

Greater London Authority Act 1999 (c. 29)

✓ Law In Force

31.

In section 6 of the Greater London Authority Act 1999 (failure to attend meeting of the Assembly), after subsection (4) there is inserted–

“(5) Any period during which an Assembly member is suspended or partially suspended under section 66, 73, 78 or 79 of the Local Government Act 2000 shall be disregarded for the purpose of calculating the period of six consecutive months under subsection (1).”

Commencement

Sch. 5 para. 31: December 19, 2000 (SI 2000/3335 art. 2)

Extent

Sch. 5 para. 31: England, Wales

✔ Law In Force

32.

Section 13 of that Act (failure of Mayor to attend meetings) is to become subsection (1) of that section and after that subsection there is inserted—

“(2) Any meeting of the Assembly which the Mayor is unable to attend because he is suspended or partially suspended under section 66, 73, 78 or 79 of the Local Government Act 2000 shall be disregarded for the purposes of subsection (1) above.”

Commencement

Sch. 5 para. 32: December 19, 2000 (SI 2000/3335 art. 2)

Extent

Sch. 5 para. 32: England, Wales

✔ Law In Force

33.

In section 31 of that Act (limits of the general power), in subsection (5), for paragraphs (a) and (b) there is substituted “any social services function within the meaning of the Local Authority Social Services Act 1970”.

Commencement

Sch. 5 para. 33: October 26, 2000 (SI 2000/2849 art. 2(f))

Extent

Sch. 5 para. 33: England, Wales

✘ Not Yet In Force

34.

Section 66 of that Act (the Secretary of State's guidance on ethical standards) ceases to have effect.

Commencement

Sch. 5 para. 34: Date to be appointed (not yet in force) (2000 c. 22 Pt VI s. 108(3))

Extent

Sch. 5 para. 34: England, Wales

SCHEDULE 6**REPEALS**

 Partially In Force

Chapter	Short title	Extent of repeal
1970 c. 42.	Local Authority Social Services Act 1970.	Section 2(2). In section 3(1), the words “(hereafter in this Act referred to as “social services functions”)”. Section 6(5).
1972 c. 70.	Local Government Act 1972.	In section 80(1)(e), the words “or under the Audit Commission Act 1998”. Sections 94 to 98. In section 100D(2), “of the list, or”. Section 105. In section 265A(1)(b), “94 to 98”.
1974 c. 7.	Local Government Act 1974.	In section 30, in subsection (3), “except where subsection (3A) below applies” and subsection (3A).
1976 c. 57.	Local Government (Miscellaneous Provisions) Act 1976.	In section 25(8), the words from “Without prejudice” to “inhabitants of its area”.
1978 c. 50.	Inner Urban Areas Act 1978.	In section 13, the words “section 137(1) of the Local Government Act 1972 or”.
1985 c. 51.	Local Government Act 1985.	In Schedule 14, paragraph 13.
1985 c. 67.	Transport Act 1985.	In section 74(12), “section 94 of the 1972 Act or”.
1985 c. 68.	Housing Act 1985.	Section 11A(4).
1986 c. 60.	Financial Services Act 1986.	In Schedule 16, paragraph 8 (a).
1989 c. 42.	Local Government and Housing Act 1989.	In section 5(2)(a), and in section 5(2)(a) as substituted by section 73(6) of the Greater London Authority Act 1999, the words “or of any code of practice made or approved by or under any enactment”. Sections 19, 31, 32(1) and 33 to 35. In Schedule 11, paragraphs 22 and 23.
1992 c. 14.	Local Government Finance Act 1992.	In Schedule 13, paragraph 32.
1994 c. 19.	Local Government (Wales) Act 1994.	In Schedule 15, paragraph 25.
1994 c. 29.	Police and Magistrates' Courts Act 1994.	In Schedule 4, paragraph 7.
1995 c. 25.	Environment Act 1995.	In Schedule 7, paragraphs 9 and 10.
1996 c. 16.	Police Act 1996.	In Schedule 7, in paragraph 1 (2)(h), “98(1A)” and paragraph 21.
1996 c. 56.	Education Act 1996.	In Schedule 37, paragraph 63.
1997 c. 50.	Police Act 1997.	In Schedule 6, paragraphs 1 and 2.
1998 c. 18.	Audit Commission Act 1998.	In section 16(1)(a), “or 18”. In section 17, subsection (1) (b) and “and” preceding it; in subsection (2), “subject to subsection (3)”, paragraphs (a) and (b) and “and” following paragraph (b); subsections (3), (5)(b), (7) and (8). Section 18.

Chapter	Short title	Extent of repeal
1999 c. 29.	Greater London Authority Act 1999.	Sections 20 to 23. In Schedule 3, paragraph 3 (1). Section 66. In Schedule 8, paragraphs 6 and 7.

Commencement

Sch. 6 para. 1: September 28, 2000 in relation to the repeal specified in 2000 c.22 s.108(2)(c); October 1, 2000 in England in relation to the repeal specified in SI 2000/2187 art.3; October 18, 2000 in England in relation to repeals specified in SI 2000/2836 art.2(b); October 26, 2000 in England in relation to repeals specified in SI 2000/2849 art.2(g); April 9, 2001 in Wales in relation to repeals specified in SI 2001/1411 art.2; July 28, 2001 in relation to repeals specified in 2000 c.22 s.108(3)(4); July 27, 2002 in relation to England and police authorities in Wales for repeals specified in 2002/1718 art.2(b); not yet in force otherwise (2000 c. 22 Pt VI s. 108; SI 2000/2187 art. 3; SI 2000/2836 art. 2(b); SI 2000/2849 art. 2(g); SI 2001/1411 art. 2; SI 2002/1718 art. 2(b))

Extent

Sch. 6 para. 1: England, Wales

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Local Government Act which received Royal Assent on 28 July 2000. They have been prepared by the Department of the Environment, Transport and the Regions (DETR), with the Office of the Secretary of State for Wales, in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.
3. The Act covers various aspects of local authorities and is in six Parts:
 - promotion of economic, social and environmental well-being (Part I);
 - arrangements with respect to executives, including elected mayors (Part II);
 - conduct of local government members and employees (Part III);
 - elections (Part IV);
 - miscellaneous provisions including: surcharge and advisory notices; maladministration; welfare services; allowances and pensions for local authority members; indemnification of councillors and council officers; social services functions; charging for the provision of childcare by local authorities; and the prohibition on the promotion of homosexuality (Part V); and
 - supplemental provisions including orders and regulations; arrangements in Wales; and commencement (Part VI).

PART I: PROMOTION OF ECONOMIC, SOCIAL OR ENVIRONMENTAL WELL-BEING

Summary

4. Part I of the Act gives local authorities powers to take any steps which they consider are likely to promote the well-being of their area or their inhabitants. It also places authorities under a duty to develop community strategies, together with other local bodies, for this purpose. These provisions are intended to give local authorities increased opportunities to improve the quality of life of their local communities.

5. Part I also enables the Secretary of State to remove statutory constraints on authorities' ability to exercise the new well-being power and on their ability to plan co-ordinated local action.

Background

6. Local authorities are statutory corporations and operate within a framework laid down by statute. They have no powers to act other than where they are expressly authorised by law to do so. There is a wide range of statutory duties which authorities are required to fulfil, and an even wider range of permissive powers enabling them to undertake defined activities if they so wish.

7. In addition, local authorities have a small number of 'general' powers. The most significant of these is section 137 of the Local Government Act 1972, which permits authorities to incur expenditure that is in the interests of their area, subject to certain conditions. One of those conditions is that section 137 cannot be used for any purpose for which there is authority in other legislation, or to overcome any limitations, prohibitions or conditions in other legislation.

8. This formulation has, on occasion, led the courts to take a restrictive view of the activities that can be pursued using section 137. In some cases, the courts have inferred from the absence of specific powers in other legislation that certain activities are prohibited and that an authority cannot, therefore, rely on its section 137 powers to overcome that prohibition. This has created uncertainty amongst local authorities and their potential partners about the extent to which authorities can rely on their general powers to undertake certain activities.

9. The scope of section 137 is further restricted by the limit on how much authorities can spend (currently between £1.90 and £3.80 per head of population depending on the class of authority); and by the additional restrictions placed on section 137 by the Local Government and Housing Act 1989. As a result of the 1989 Act, authorities must now be able to establish that any expenditure under section 137 is of "direct" benefit to their area which is "commensurate with the expenditure to be incurred".

10. Local authorities also have general economic development powers under sections 33 to 35 of the Local Government and Housing Act 1989. Again, these powers are heavily constrained by the restrictions placed on their use.

11. In the White Paper, *Modern Local Government: In Touch with the People*¹, the Government set out its view that community leadership should be at the heart of the role of modern local authorities. To enable local authorities to develop that role and to respond to the needs of local communities, the White Paper argued that authorities would need the freedom to work with other local public, private and voluntary organisations to develop solutions to local problems.

12. To provide authorities with the necessary freedoms, the White Paper proposed that local authorities' general powers should be extended; specifically, that they should be given a new discretionary power to take steps which in their view promote the economic, social and environmental well-being of those who live in, work in or visit the local area.

13. To facilitate a more co-ordinated and coherent response to local service delivery, the White Paper also proposed that authorities should be required to develop community strategies. These strategies, developed with local people, business, public and voluntary organisations would set out how the authority and its partners would work together to promote the well-being of their local community.

Commentary on sections

Sections 2 and 3: Promotion of well-being

14. Section 2 provides local authorities with a power to take any steps which they consider are likely to promote or improve the economic, social or environmental well-being of their local community, subject to the restrictions contained in section 3.

15. Together, these sections allow local authorities to undertake a wide range of activities for the benefit of their local area and to improve the quality of life of local residents, businesses and those who commute to or visit the area. This is intended to clear up much of the uncertainty which currently exists about what authorities can do. Sections 2 and 3 allow authorities to take any action, unless it is subject to statutory prohibitions, restrictions or limitations specifically set out in legislation. The intention is to broaden the scope for local authority action while reducing the scope for challenge on the grounds that local authorities lack specific powers.

16. Amongst other things, section 2(3) means local authorities must consider the objectives and priorities contained in their community strategy before they take action under the power in section 2(1). This is in no way meant to limit the scope of the power in section 2(1). Rather it is designed to encourage authorities to think about the broad goals and objectives contained in the community strategy, before deciding how best to use their well-being power.

17. Additionally, section 2(4) makes clear that the power in section 2(1) enables authorities to work in partnership with other bodies. For example, it allows authorities to assist other statutory bodies to discharge their functions, or to exercise those functions on their behalf. This is intended to help local authorities and other statutory service providers to work together to provide services in ways which meet the needs of communities.

18. Section 3 prevents local authorities from using the power in section 2 to raise money. It also allows the Secretary of State, in relation to England, and the National Assembly for Wales (NAW), in relation to Wales, to prevent authorities from using the power to do anything which they specify by order that authorities should not do. This section also permits the Secretary of State and the NAW to issue guidance to authorities on the exercise of the power. Before issuing any guidance, the Secretary of State and the NAW would have to consult local government and others.

Section 4: Strategies for promoting well-being

19. Section 4 requires authorities to work together with other bodies to establish a strategy for promoting the well-being of their local communities. Such strategies are intended to allow authorities, and other bodies who provide local services, to establish common priorities and determine the steps which they would take to address them.

20. This section also allows the Secretary of State and the NAW, following consultation with local government and others, to issue guidance on the exercise of the power.

Sections 5 to 7 and section 9: Powers to modify enactments

21. Section 2 provides authorities with a broad power to act. Local authorities will be able to use the power except where there are specific prohibitions, restrictions or limitations in other legislation. There may, however, be statutory prohibitions, restrictions or limitations specifically set out in legislation which will be found to limit the use of the well-being power. Section 5 allows the Secretary of State, by order, to amend, repeal, revoke or disapply any enactment which obstructs authorities from taking steps to promote the well-being of their communities. This power could be exercised in relation to particular local authorities.

22. Section 6 allows the Secretary of State to amend, repeal, revoke or disapply any enactment which requires local authorities to prepare a plan or strategy. This power could also be exercised in relation to particular local authorities. This is a deregulatory power; it might, for example, be used to remove requirements for statutory plans which no longer served a useful purpose, or to amend the requirements on specific authorities so that they could work more efficiently with their local partners to plan how they would meet common priorities.

23. Section 7 allows the NAW to exercise the powers in section 6 in relation to the plans specified in section 7(2). The list of plans in that subsection is not yet comprehensive because not all the statutory plans where the NAW has a relevant role have yet been identified. Subsection (2)(d) therefore provides the Secretary of State with the powers to add further plans to the list, by order.

24. Section 9 sets out the procedure to be followed by the Secretary of State in making orders under sections 5 or 6. It provides for detailed scrutiny of any such orders. Before laying any orders, the Secretary of State is required to consult local government and others (including, where the proposals would affect Welsh local authorities, the NAW). He must make available to Parliament the results of that consultation, together with a full explanation of the purpose of the order.

Section 8: **Modification of** section 137 of the Local Government Act 1972

25. Section 8 modifies the general power contained in section 137 of the 1972 Act, as a consequence of the introduction of the new power contained in section 2 of this Act. It removes most of the powers contained in section 137 from the authorities to whom section 2 applies (as set out in section 1). It retains, for all authorities, the powers in section 137(3) of the 1972 Act, which permit authorities to make contributions to certain charitable funds.

PART II: ARRANGEMENTS WITH RESPECT TO EXECUTIVES

Summary

26. Part II of the Act contains provisions for new political management structures for local authorities in England and Wales, including local authority executives and executive arrangements. This Part introduces a new decision-making framework in which there is a separation of decision-making and scrutiny of those decisions. It sets out three initial broad forms of executive on which all local authorities must consult, although for certain small district councils there is a further option for alternative arrangements on which to consult, which does not involve a separate executive (see sections 31 and 32).

27. The objective of the policy underlying Part II is to deliver greater efficiency, transparency and accountability of local authorities. The new arrangements are intended to ensure that decisions can be taken more quickly and efficiently than in the existing committee system, that the individuals or bodies responsible for decision-making can be more readily identified by the public, and that those decision-makers can be held to account in public by overview and scrutiny committees.

28. This Part of the Act allows the Secretary of State to specify further forms of executives and forms of alternative arrangements. It requires local authorities to hold a referendum:

- where their proposals involve a form of executive which includes a directly-elected mayor, or a further form of executive specified in regulations under section 11 for which those regulations specify a referendum is required;
- where 5% or more of the council's electorate petition for a form of executive for which a referendum is required; or
- where the Secretary of State requires an authority or group of authorities to hold a referendum on one of the forms of executive available in or under the Act.

In the last two cases this will be given effect by secondary legislation.

Background

29. Until now, council business has been carried out under a committee system. Decisions which are not delegated to officers, area committees or to other authorities, contracted out, or carried out jointly with one or more other authorities must be taken either in full council or by committees or sub-committees which comply with the statutory requirements as to the political balance of the council and committees. The Government believes that this system is in need of reform.

30. Under executive arrangements it is proposed that the council's policy framework and budget would be agreed by the full council following proposals from the executive. The executive would then be charged with implementing the agreed policy framework. Overview and scrutiny committees, which may co-opt people who are not councillors onto their committees, would be charged with holding the executive accountable for that implementation. Such committees would also be able to advise the executive and council on policy development.

31. The Government paper *Local Leadership, Local Choice*² provided further details of these proposals and included a draft Local Government (Organisation and Standards) Bill which was submitted to the scrutiny of a Parliamentary Joint Committee of MPs and Peers in May 1999. This built on proposals in the White Papers *Modern Local Government: In Touch with the People*³ and *Local Voices: Modernising Local Government in Wales*⁴.

Commentary on sections

32. By virtue of section 106, the powers under Part II exercisable by the Secretary of State in England will be exercisable in Wales by the National Assembly for Wales (NAW), except in respect of section 44 (power to make provision about elections) since the conduct of elections is not a devolved matter. The Parliamentary procedures set out in section 105 for orders and regulations do not apply to the NAW, which has its own procedures in relation to secondary legislation.

Section 10: Executive arrangements

33. Section 10 provides that executive arrangements are arrangements for the setting up and operation by a local authority of an executive, which has responsibility for certain functions of the authority.

Sections 11 and 12: *Local authority executives*

34. Section 11 specifies three possible forms of executive:

- a directly-elected mayor who appoints two or more councillors to the executive (referred to in Part II as a mayor and cabinet executive);
- an executive leader, elected by the full council, plus two or more councillors appointed by the leader or the council (a leader and cabinet executive); or

- a directly-elected mayor, with an officer of the authority appointed by the council as a council manager (a mayor and council manager executive).

35. This section also allows the Secretary of State to specify further forms of executive in regulations, including a form of executive with other members who are directly elected.

36. Section 11 prevents the chair or vice-chair of the authority from being a member of the executive, in order to maintain his/her independence from the executive. It also limits the number of councillors who can be on the executive to ten, although this limit can be lowered by regulations made by the Secretary of State.

37. Section 12 provides that the Secretary of State must have regard to certain matters when making new forms of executive available using the power in section 11, and when making regulations under section 17 with respect to the discharge of functions in those new forms of executive. These matters are:

- any proposals put forward by local authorities;
- the extent to which he considers the operation of executive arrangements involving the new form of executive would be likely to ensure that decisions are taken in an efficient, transparent and accountable way;
- the extent to which the new form of executive differs from the forms of executive available at the time; and
- the number and description of authorities for which he considers the new form of executive would be an appropriate one to consider.

38. This section also provides for councils to put forward proposals for further forms of executive arrangements to the Secretary of State. Such proposals must, in the opinion of the authority, satisfy the following conditions:

- that arrangements involving the proposed new form of executive would be a improvement on the arrangements the authority currently have in place to discharge their functions;
- that the operation of executive arrangements involving the new form of executive would be likely to ensure that decisions are taken in an efficient, transparent and accountable way; and
- that the new form of executive would be appropriate for either all or a particular description of authorities to consider.

39. In addition, such proposals must also include the following information:

- a description of the proposed form of executive;
- a description of the provision which the authority consider should be made under section 17 in respect of the ways in which functions which are the responsibility of the executive should be discharged; and
- an explanation of why the authority considers that the conditions above are met.

Section 13: Executive functions

40. Section 13 provides the mechanism for determining which local authority functions are functions which are the responsibility of the executive. It allows the Secretary of State to make regulations to specify those functions which may, but need not, be the responsibility of the executive, and those functions which must not be the responsibility of the executive. The presumption is that all functions of the authority are to be the responsibility of the executive unless specified in regulations under this section. It is envisaged that certain functions, such as licensing functions, will be so specified.

41. Section 13 also allows for regulations which specify that certain functions are, to some extent, the responsibility of the executive and to another extent not the responsibility of the executive. For example, regulations may specify that the executive is responsible for preparing a draft budget but that the council is responsible for approving the budget.

42. This section also enables regulations to specify cases or circumstances in which functions which would otherwise be the responsibility of the executive are not to be the responsibility of the executive. For example, regulations may specify that such functions are not to be the responsibility of the executive in the circumstance that the discharge of the functions would be contrary to the council's budget or certain of the councils' plans and strategies.

43. Section 101 of the Local Government Act 1972 may, through these regulations, be disappplied from any functions which are not to be the responsibility of the executive.

Sections 14 to 20: Provisions with respect to executive arrangements

44. These provisions set out in greater detail how decision-making within each form of executive is to take place. Section 14 relates to a mayor and cabinet executive. It provides for the mayor to determine how functions which are the responsibility of the executive should be carried out. The options are for such functions to be discharged by the full executive, single members of the executive (including the mayor) acting alone, committees of the executive or officers. There is also some scope for further sub-delegation within the executive and to officers.

45. Section 15 relates to a leader and cabinet executive. It allows for functions which are the responsibility of the executive to be delegated by the executive leader—in a way similar to the framework under section 14—or to be discharged as set out in the executive arrangements drawn up by the local authority, or for a mixture of the two.

46. Section 16 relates to a mayor and council manager executive. It allows functions which are the responsibility of the executive to be carried out by the council manager or for that person to arrange for any such functions to be carried out by the executive or a nominated officer.

47. Section 17 enables the Secretary of State to make regulations on how functions may be discharged in any new form of executive set out in regulations under section 11(5).

48. Sections 18 to 20 provide powers for the Secretary of State to make regulations intended to enable more flexibility in the way that functions which are the responsibility of the executive may be discharged. The regulations may provide for arrangements to be made for functions which are the responsibility of the executive:

- to be discharged by an area committee (defined in section 18(3) to (5));

- to be discharged by another local authority; and

- to be discharged jointly with one or more local authorities (under arrangements under section 101(5) of the Local Government Act 1972), including by way of joint committees or joint area committees.

The regulations may also provide for functions of another local authority to be discharged by the executive.

Section 21: Overview and scrutiny committees

49. Section 21 requires authorities operating executive arrangements to set up overview and scrutiny committees in order to hold the executive to account; members of the executive are not able to be members of an overview and scrutiny committee.

50. Section 21 also gives power to overview and scrutiny committees to make reports and recommendations, either to the executive or to the authority, on any aspect of council business. They also have the power to make reports and recommendations on other matters which affect the authority's area or the area's inhabitants. It is envisaged that the regulations under section 13 will also provide that they have power to carry out best value reviews (under section 5 of the Local Government Act 1999) where the local authority has decided that such a function is not to be the responsibility of the executive.

51. Section 21 allows an overview and scrutiny committee to require officers and members of the executive to appear before it. It is also allowed to invite any other person to appear before it. This section gives the committee power to review or scrutinise any executive decisions which have been made and recommend that they are reconsidered by those responsible; or else to arrange for the authority to review the decision and, where necessary, ask those responsible for the decision to reconsider. Any member of an overview and scrutiny committee is able to ensure that any relevant matter is put on the agenda and discussed at a meeting of the committee.

52. Overview and scrutiny committees are able to co-opt people who are not members of the authority. However, in general, such co-optees will not have voting rights. Schedule 1 contains the right for church and parent governor representatives to be appointed with voting rights onto an overview and scrutiny committee where the committee's functions relate wholly or partly to any education functions which are the responsibility of the authority's executive. These detailed provisions are set out in paragraphs 7 to 11 of Schedule 1.

Section 22: Access to information etc.

53. Section 22 allows the Secretary of State to specify in regulations which meetings of the executive or its committees must be open to the public and which must be held in private. Other than where specified in regulations, it will be for the executive to choose whether to meet in private or in public. Written records of prescribed decisions made at meetings of the executive held in private or by individual members of the executive must be kept, including reasons for the decisions. These records, together with such reports and background papers as may be prescribed, must be made available to the public. Regulations could ensure that failure by the executive to cause to have such a record made and failure by the proper officer of the authority to make the record public would be criminal offences.

54. Regulations under section 22 would also be able to apply provisions of Part VA of the Local Government Act 1972, with or without modifications, to meetings of the executive and its committees, whether held in public or in private. The regulations may make provision requiring prescribed information about prescribed decisions to be made publicly available, and may also make provision about access to meetings of joint committees which are discharging functions which are the responsibility of the executive. (See also paragraphs 242 and 243 below, addressing sections 97 and 98.)

Section 23 and Schedule 1: Executive arrangements: further provision

55. Schedule 1 sets out further details of the working of executive arrangements and makes provisions about the role of church and parent governors on overview and scrutiny committees.

56. For a mayor and cabinet executive, the arrangements must allow the mayor to determine the size of the executive (subject to the restriction in section 11(8)). The arrangements must also allow the mayor to appoint his or her own deputy from amongst the executive.

57. For a leader and cabinet executive, either the authority or the leader can determine the size of the executive, subject to the restriction in section 11(8). The arrangements may include provision with respect to the election and term of office of the executive leader and the appointment and term of office of members of the executive where the council appoints them.

58. For a mayor and council manager executive, the arrangements must allow the mayor to appoint a deputy from amongst the members of the authority, who cannot be the chairman or vice-chairman of the authority or be on an overview and scrutiny committee; this is to preserve independence between these three parts of the council. The council manager is entitled to attend and speak at council meetings and committee and sub-committee meetings. This allows him to carry out his duties, to advise the council and to be open to scrutiny. He will not, however, be allowed to vote, as he will not be an elected member of the authority. Schedule 1 also provides that the post of council manager is a politically restricted post, and that the post cannot be combined with that of chief finance officer or monitoring officer. Politically restricted posts are dealt with in Part I of the Local Government and Housing Act 1989 (sections 1 to 3).

59. The Schedule also allows committees to be set up by the elected mayor to advise the executive in the mayor and council manager executive. This will ensure that the executive has access to advice and that policy-making can be properly informed. The Schedule allows such committees not to be politically balanced, reflecting the provisions for the executive as a whole set out in section 24.

60. The Schedule provides that, in the case of arrangements involving either the mayor and cabinet or mayor and council manager form of executive, a deputy mayor in Wales will be able to be called by the Welsh equivalent to the title in addition to the English language version.

61. The Schedule permits executive arrangements to cover such matters as the conduct of meetings, and similar matters in relation to committees of the executive. It also enables the Secretary of State to make regulations for appointment of an assistant for the mayor.

62. As a consequence of the provisions on access to information, the Schedule makes it clear that a member of a local authority who is not a member of the executive is only entitled to attend and speak at a meeting of the executive which is held in private if invited to do so.

63. The Schedule also makes detailed provision about the appointment of church and parent governor representatives to overview and scrutiny committees (see paragraph 52 above).

Notes

¹ Cm 4014, July 1998. Available from The Stationery Office (telephone: 0345 023474) or on the DETR website (www.detr.gov.uk).

² Cm 4298, March 1999.

³ Cm 4014, July 1998.

⁴ Cm 4028, 1998.

Section 24: Absence of requirement for political balance

64. Section 24 provides that executives and executive committees need not reflect the political balance of the authority.

Section 25 to 30: Procedure with respect to operation of executive arrangements

65. Section 25 requires every local authority (except those to whom section 31 applies) to draw up proposals for moving to executive arrangements. Before drawing up proposals a local authority

must consult widely with the local community on the proposals. This consultation should include local electors, but also other interested parties. In drawing up these proposals the local authority must decide which form of executive it intends to adopt and which functions would be the responsibility of the executive (where the local authority has a choice). The proposals must also include a timetable for implementation of the proposal; details of any transitional arrangements that will be put into place and such details of the executive arrangements as the Secretary of State may direct.

66. In drawing up proposals an authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. In addition, an authority must comply with directions from the Secretary of State.

67. A copy of the proposals must be sent to the Secretary of State accompanied by a statement describing the steps taken to consult and the extent to which the outcome of the consultation is reflected in the proposals. The aim is to ensure that the executive arrangements adopted by an authority reflect the aspirations of the community and are appropriate to that authority. The Secretary of State may, by order, specify a date by which every local authority must comply with this section.

68. Section 26 provides that authorities which propose a form of executive that does not require a referendum must implement their proposals in line with the timetable included in their proposals. It also provides a definition of a form of executive for which a referendum is required.

69. If the proposals drawn up under section 25 involve a form of executive for which a referendum is required, section 27 requires a local authority to:

hold a referendum; and

draw up and send to the Secretary of State an outline of fall-back proposals that they intend to implement if the proposals under section 25 are rejected in the referendum.

70. Fall-back proposals are proposals for executive arrangements for which a referendum is not required or for alternative arrangements within the meaning of section 32. The outline fall-back proposals must include a timetable for implementation of detailed fall-back proposals (based on the outline) in the event that the proposals drawn up under section 25 are rejected by the referendum. An authority must consult local government electors and other interested parties when drawing up their outline fall-back proposals. The referendum decision would be binding on the authority. Where the proposals under section 25 are approved by the referendum they must be implemented. Where such proposals are rejected, the authority must not implement them; instead, it must draw up detailed fall-back proposals based on the outline fall-back proposals.

71. Detailed fall-back proposals must include such details of the executive or alternative arrangements as the Secretary of State directs. In drawing up these proposals the local authority must consider (where the proposals are for executive arrangements and the authority has a choice) which functions would be the responsibility of the executive. The proposals must also contain details of any transitional arrangements that will be put into place. An authority must consult with the local community before drawing up the detailed fall-back proposals. This consultation must include local electors, but also other interested parties.

72. In drawing up detailed fall-back proposals an authority must consider the extent to which the proposals are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

In addition, an authority must comply with directions from the Secretary of State when drawing up detailed fall-back proposals.

73. A copy of the detailed fall-back proposals must be sent to the Secretary of State. The detailed fall-back proposals must be implemented in accordance with the timetable included in the outline fall-back proposals.

74. Section 28 allows an authority to apply to the Secretary of State for approval of outline fall-back proposals which are not available at that time, but which are of a type which could be made available by regulations under section 11(5) or section 32. Where the Secretary of State approves such fall-back proposals, the authority must implement their fall-back proposals in accordance with the timetable included in the outline fall-back proposals, subject to any delay in making the necessary regulations. The Secretary of State may give directions on the form and content of an application for approval.

75. Section 29 requires a resolution of the full council to adopt executive arrangements. Once adopted, details of the arrangements must be made available for inspection by the public and be widely publicised in the area of the authority. Such publicity should include the main features of how the arrangements will work and give a date on which the arrangements enter into effect.

76. This section also makes clear that once an authority has adopted executive arrangements, it cannot revert to arrangements which are not based on a separate executive, unless the authority is operating alternative arrangements in place of executive arrangements under the provisions made under section 33(5).

77. Section 30 enables the Secretary of State to make regulations to cover all the eventualities where local authorities are changing their executive arrangements or moving from one form of executive arrangements to another, different, form of executive arrangements.

Sections 31 to 33: **Alternative arrangements**

78. Section 31 provides that certain authorities may decide whether to draw up proposals for executive arrangement or proposals for alternative arrangements. The authorities who have this choice are district councils whose area is within the area of a county council and whose resident population is less than 85,000 (as estimated by the Registrar General on 30 June 1999), and any other description of authorities specified in regulations under this section.

79. Section 31 requires that authorities must consult widely with the local community in deciding whether to draw up proposals for executive or alternative arrangements and each authority must consider, in drawing up its proposals, the extent to which the proposals are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. Authorities which draw up proposals for alternative arrangements under this section must also comply with other requirements in regulations, such as requirements as to the implementation of the proposals.

80. Section 32 allows the Secretary of State to specify in regulations alternative arrangements for the discharge of functions which do not involve an executive. Such arrangements cannot include a separate executive, must include overview and scrutiny arrangements and must, in the Secretary of State's opinion, be likely to ensure that decisions are taken in an efficient, transparent and accountable way. Alternative arrangements may also include provision for the discharge of functions by individual members of the authority, or appointment of committees whose membership does not reflect the political balance of the authority.

81. Section 33 provides that an authority may not operate alternative arrangements unless required or permitted to do so by virtue of this Part of the Act, and that once an authority is operating alternative arrangements it may not cease to do so unless it operates executive arrangements in their place. A resolution of the full council is necessary to adopt executive arrangements and, once adopted, details of the arrangements must be made available for inspection by the public and be widely publicised in the area of the authority. Such publicity should include the main features of how the arrangements will work and a date on which the arrangements come into effect.

82. This section also enables the Secretary of State to make regulations which provide for all the eventualities where:

- authorities to which section 31 applies are changing from executive arrangements to alternative arrangements;
- any authorities are changing their alternative arrangements or moving from one form of alternative arrangements to another, different, form of alternative arrangements; and
- any authorities are changing from alternative arrangements to executive arrangements.

Sections 34 to 36: **Referendums**

83. Section 34 gives the Secretary of State a power to make regulations concerning public petitions in relation to whether a local authority should have a form of executive involving a directly-elected mayor or such other form of executive for which a referendum is required. It provides that regulations made under this section could require a local authority to hold a referendum where they have received a petition signed by at least 5% of local electors. Regulations may specify matters such as the form of petitions (including electronic petitions), their verification, the timing of referendums, the action to be taken by a local authority on receipt of a petition, and the manner in which and times at which the number of electors required to sign the petition is to be calculated and publicised. Regulations may also vary the 5% threshold for petitions.

84. Section 35 gives the Secretary of State a regulation-making power which enables him to direct a local authority to hold a referendum on whether they should adopt executive arrangements involving a form of executive described in or under section 11. The regulations will specify the circumstances in which the Secretary of State will be able to invoke this power, and may include provisions for the timing of a referendum and the action to be taken by the authority before and after the referendum.

85. Section 36 enables the Secretary of State, by order, to require all local authorities, or all authorities of a particular description, to hold a referendum on a particular form of executive described in or under section 11.

86. Any requirement to hold a referendum arising under these sections will be subject to the constraint in section 45 that a referendum on executive arrangements may not be held more than once in any five years.

Section 37: **Local authority constitution**

87. Section 37 requires an authority which is operating executive arrangements or alternative arrangements under this Part of the Act to maintain a document (referred to as their constitution) and ensure that it is available for inspection by members of the public. The authority will have to supply a copy to anybody who requests one, upon payment of a reasonable fee. The constitution is to include the standing orders and councillor code of conduct of the authority and such other information as the Secretary of State may direct.

Sections 39 to 41: Elected mayors and elected executive members

88. Section 39 provides that an “elected mayor” means an individual elected to that post by the local government electors in the authority's area. “Elected executive members” are also to be elected by the local government electors for the authority's area. Elected executive members are individuals who are directly elected to an executive or to a particular post in an executive, where an executive including such members has been provided for in regulations under section 11(5). The section also provides that the Secretary of State may make regulations specifying those enactments in respect of which elected mayors are to be treated as a local authority councillor or member.

89. The normal term of office for an elected mayor or an elected executive member will be four years, except as otherwise provided for in regulations made by the Secretary of State under section 41.

90. Section 40 provides that no one may be the elected mayor and a councillor for an electoral division or ward in the same authority. Subsection (1) provides that if anyone stands for election to be, and is elected as, both the elected mayor and a councillor for an electoral division or ward in the same authority in elections held at the same time, a vacancy will arise in the office of councillor.

91. Subsection (2) provides that where the election for the elected mayor is not held at the same time as elections for councillors for an electoral division or ward and a sitting councillor is elected as the elected mayor of the authority, a vacancy will arise in the office of councillor.

92. Subsections (3) and (4) provide that an elected mayor may not stand in an election to be a councillor for an electoral division or ward unless the elections are to be held at the same time in which case the elected mayor may stand in one, the other, or both elections. If he or she stands in both elections and is elected in both, a vacancy will arise in the office of councillor.

93. Section 41 enables the Secretary of State to make regulations providing for the dates, years, and intervals at which elections for elected mayors or elected executive members can take place. This enables the Secretary of State, for example, to provide for elections which are consistent with the different electoral cycles operated by local authorities, and could allow initial terms of office for directly elected members of greater or less than four years so that the cycle can be brought into step with the normal electoral cycle.

Sections 42 to 44 and Schedule 2: Elections

94. Section 42 and Schedule 2 describe the method for electing a directly-elected mayor. This will normally be the supplementary vote system (SV), unless there are less than three candidates in which case the simple majority system is used.

95. Under the SV system, the elector has two votes—a first preference vote cast for the elector's preferred candidate, and a second vote cast for the elector's second preference from among the remaining candidates. Schedule 2 specifies the procedure for returning an elected mayor under the SV system. If any candidate receives more than half of the first preference votes cast, that candidate is the winner. Otherwise, all but the two candidates who received the greatest number of first preference votes are eliminated. Any second preference votes among the votes for the eliminated candidates which have been cast for the two remaining candidates are then added to those candidates' total votes, and the candidate with the highest number of votes overall is elected mayor. Schedule 2 also provides procedures for dealing with an equality of votes at any stage of the process.

96. Section 43 provides that entitlement to vote at elections of elected mayors or elected executive members is the same as the electoral franchise for normal local government elections.

97. Section 44 provides for the Secretary of State to make regulations regarding the conduct of elections for elected mayors and elected executive members. This includes a power to apply or modify any statutory provisions relating to the conduct of elections. This allows the Secretary of State to provide for the existing statutory framework for the conduct of elections to be applied to mayoral (and any elected executive) elections appropriately.

Section 45: Provisions with respect to referendums

98. Section 45 provides that a local authority may hold only one referendum on proposals for executive arrangements in any five-year period. This includes referendums triggered by a public petition under section 34, or required by the Secretary of State under section 35 or 36. The people eligible to vote in a referendum will be those people who would normally be entitled to vote at local government elections in the authority conducting the referendum.

99. Section 45 also provides for the Secretary of State to make regulations on the conduct of referendums, and for the application of electoral and referendum legislation to the holding of these referendums.

Section 46 and Schedule 3: Amendments to the Local Government Act 1972

100. Schedule 3 contains amendments and modifications to certain provisions of the Local Government Act 1972 which are consequential upon the provisions of Part II of the Act. These amendments and modifications in particular provide for the integration of references to an elected mayor into the various provisions in the 1972 Act which set out the ways in which local authorities are constituted.

Section 47: Power to make further provision

101. Section 47 allows the Secretary of State, by order, to make such incidental, consequential, transitional or supplemental provision as he considers necessary or expedient to give full effect to Part II. This includes a power to modify, apply, extend, or repeal any legislation.

PART III: CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

Summary

102. Part III of the Act establishes a new ethical framework for local government. This includes the introduction of statutory codes of conduct, with a requirement for every council to adopt a code covering the behaviour of elected members and of officers, and the creation of a standards committee for each authority.

103. It also establishes a new non-Departmental public body (NDPB), the Standards Board for England; in Wales the functions of the Standards Board will be conferred on the Commissioner for Local Administration in Wales (CLAW). This will ensure an independent process for investigating instances of unethical conduct by relevant authority members, including any allegations that a code of conduct has been breached.

Background

104. Until now, councillors have been required (by virtue of section 83 of the Local Government Act 1972) to declare at the time of accepting office that they will be guided by the National Code

of Local Government Conduct—which was issued as a Joint Circular under section 31 of the Local Government and Housing Act 1989. The Code deals with the treatment of non-pecuniary interests.

105. A requirement on members to give notice of their pecuniary interests in the form of a register was introduced by regulations made under section 19 of the 1989 Act. The declaration of pecuniary interests at relevant meetings is a requirement under section 94 of the 1972 Act; section 97 of that Act enables dispensations to be granted to speak and/or vote at such meetings.

106. However, apart from the criminal offences under section 94(2) of the 1972 Act of failure to declare a pecuniary interest or non-registration of such an interest under section 19(2) of the 1989 Act, the only action that can be taken against an individual member for misconduct is under section 30(3A) of the Local Government Act 1974 which provides for the local government Ombudsman to be able to name a member or members where he finds that a breach of the code by an individual member constitutes maladministration.

107. The Third Report of the Committee on Standards in Public Life on Standards of Conduct in Local Government (the Nolan Committee) in July 1997 recommended that the existing National Code of Local Government Conduct should be replaced. The Nolan Committee also recommended that local authorities should be able to discipline individual councillors, subject to a right of appeal to an independent tribunal.

108. The Government response to the Nolan Committee's report was included in the consultation paper *Modernising Local Government: a new ethical framework*¹. The paper set out possible arrangements for introducing such a new framework, subject to consultation. It broadly agreed with the Nolan Committee conclusions but went further in its emphasis on external independent investigation and discipline.

109. A separate consultation paper, entitled *Modernising Local Government in Wales: a new ethical framework*², was published in Wales, setting out suggested arrangements for introducing a new framework tailored to Welsh requirements.

110. The White Paper *Modern Local Government: In Touch with the People*³ set out the Government's intention to legislate for a new ethical framework for local authorities. It signalled three principal components of the new framework:

- a requirement on every council to adopt a code of conduct, based on a national model, that all members would have to sign up to;
- a requirement for all authorities to set up a standards committee to oversee ethical issues and provide advice and guidance on the code of conduct and its implementation;
- the establishment of an independent body, the Standards Board, with responsibility for investigating alleged breaches of the council's code of conduct.

111. A separate White Paper, *Local Voices: Modernising Local Government in Wales*⁴, set out the intentions of the newly formed National Assembly for Wales (NAW) to implement a new ethical framework for Welsh authorities, broadly comparable to the English framework.

112. The Government papers *Local Leadership, Local Choice*⁵ in England and *A Stronger Voice for Local People*⁶ in Wales provided further details of the framework; proposals were included in the draft Local Government (Organisation and Standards) Bill which was submitted to the scrutiny of a Parliamentary Joint Committee of MPs and Peers in May 1999.

Commentary on sections

Section 49: Principles governing conduct of members of relevant authorities

113. Section 49(1) and (2) of the Act provides the Secretary of State in England and the NAW in Wales with a power to develop a set of general principles of conduct, which will apply to all authorities covered by the new ethical framework. The general principles are intended to provide a guide for councillors' behaviour in the execution of their duties and will underpin the model code of conduct under section 50 that these authorities will adopt for their members. The general principles will also be subject to approval by Parliament in respect of England, by affirmative resolution of both Houses, before the Secretary of State can introduce them. In Wales, the general principles of conduct will be subject to approval by a resolution of the NAW.

114. Section 49(3), (4) and (5) places a duty on the Secretary of State and the NAW to consult various bodies in developing the general principles of conduct. These include representatives of relevant authorities, the Audit Commission and the Commissions for Local Administration in England and Wales (the local government Ombudsmen).

115. Section 49(6) sets out the relevant authorities in England and Wales whose members' conduct are to be governed by the general principles of conduct. Police authorities in Wales will be governed by the English general principles because policing is a non-devolved matter.

116. Section 49(7) provides a definition of a co-opted member. The new ethical framework applies equally to all those voting members of a relevant authority, whether they have been elected to the authority or appointed to it. Hereafter in these notes, the term member should be taken to include co-opted members unless otherwise stated.

Section 50: Model code of conduct

117. Section 50(1) and (2) enables the Secretary of State or the NAW to issue a model code of conduct for members of relevant authorities. The model code will give practical effect to the general principles in terms of councillors' behaviour. The code replaces a number of statutory instruments implemented in an *ad hoc* fashion over time. Once councillors have signed up to a locally adopted version of this code, they will be expected to abide by it. If they do not, they will become subject to investigation by the new Standards Board in England (and the CLAW in Wales) and to possible subsequent disciplinary action under section 79.

118. This section specifies that the model codes must be consistent with the general principles. A code may include mandatory and optional provisions. Once again, the Secretary of State and the NAW would be required to consult representatives of relevant authorities and other persons or organisations before introducing model codes. The Secretary of State may invite these organisations to draw up a draft model code.

Sections 51 and 52: Duties

119. Section 51 places a duty upon relevant authorities to adopt a code of conduct within six months of the new model code coming into force. An authority's code of conduct must include any mandatory provisions of the model code that applies to the authority. However, the authority has discretion to incorporate in its code any optional or additional provisions it wishes to include, providing they are not inconsistent with any within the model code of conduct. Again, police authorities in Wales will be subject to the English model code of conduct as policing is a non-devolved matter.

120. This section also makes provision that if an authority fails to adopt a code of conduct within the specified period, the mandatory provisions of the model code relevant to the authority will apply to it by default until it adopts its own code. Once an authority has adopted or revised its code

of conduct, it must publish the fact, make the code of conduct available for public inspection, state the address where it will be available for inspection, and send a copy to the Standards Board.

121. Section 52 makes provision for declarations and undertakings by members of relevant authorities that they will observe codes of conduct.

Sections 53 and 54: **Standards committees**

122. Section 53 places a duty upon all relevant authorities—except parish councils or community councils—to establish a standards committee.

123. This section also specifies various details of the composition of an authority's standards committee. Although the authority has discretion over the overall number of members of the standards committee, the committee must have at least three members—two who are elected members of the authority and one of whom is an independent person (i.e. not a member of that or any other authority). In an authority that operates under the executive arrangements set out in Part II of the Act, a standards committee must not include a directly-elected mayor or executive leader, and may not be chaired by a member of the executive.

124. Section 53 also gives both the Secretary of State and the NAW power to make regulations on the appointment of the independent member, the size of standards committees, and the way in which standards committees conduct their business. The Standards Board (the CLAW in Wales) may also provide guidance to relevant authorities on such issues. This section provides the independent members on the committee with voting rights, and requires the authority to provide the Standards Board with a copy of the standards committee's terms of reference. Police authorities in Wales will be subject to the regulations made by the Secretary of State, and to advice and guidance from the Standards Board, due to the non-delegation of policing matters.

125. Section 54 sets out the functions of a standards committee. The general functions are to promote and maintain high standards of conduct within the authority and to assist members of that authority to observe the authority's code of conduct.

126. This section also outlines a range of specific functions. These are to:

- advise the authority on the adoption or revision of a code of conduct;
- monitor the operation of the authority's code; and
- advise members of the authority on matters relating to their code of conduct.

127. This section also enables the Secretary of State and the NAW to issue further regulations in respect of the functions of standards committees. It also allows the Standards Board (and the CLAW in Wales) to issue guidance on these matters.

Notes

¹ Published April 1998, DETR.

² Published June 1998, Welsh Office.

³ Cm 4014, July 1998.

⁴ Cm 4028, July 1998.

⁵ Cm 4298, March 1999.

⁶ Published April 1998, Welsh Office.

Section 55: **Standards committees or sub-committees for parish councils**

128. Section 55 puts in place arrangements for the functions of a standards committee for parish council to be carried out on their behalf by the district council (or unitary county council where there is no district). Section 55(1) to (3) specifies that this can be discharged either through the standards committee of the district or by setting up a sub-committee of the standards committee to specifically consider parish council conduct issues. In deciding whether or not to set up a separate sub-committee to consider parish issues, section 55(4) requires the district council to consult the parishes concerned. Furthermore, section 55(6) and (7) requires at least one parish member to be present when the committee or subcommittee discusses parish issues. This section also enables the Secretary of State to make regulations under section 53 on the size, composition and proceedings of standards committees for parish councils. Similarly, the Standards Board may issue guidance under sections 53 and 54, as for other standards committees.

Section 56: Standards committee or sub-committees for community councils

129. Section 56 allows the standards committees or sub-committees of county and county borough councils to discharge functions in relation to community councils in Wales and their members which are situated in the area of the county/county borough councils concerned. It requires the principal councils to consult their community councils on whether to use the councils' main standards committee or to set up a specific sub-committee to deal with conduct issues relating to community council members.

Section 57 and Schedule 4: Standards Board for England

130. Section 57 provides for the creation of a Standards Board for England. The Standards Board is to have at least three members appointed by the Secretary of State. In exercising its functions, the Standards Board for England must have regard to the need to promote and maintain high standards of conduct by members of relevant authorities in England. The functions of the Standards Board are:

- to appoint employees known as ethical standards officers;
- to issue guidance to relevant authorities in relation to the conduct of their members (the Board may arrange for any such guidance to be made public);
- to issue guidance to relevant authorities in England in relation to the qualifications or experience which monitoring officers should possess;
- to issue guidance on the size, composition and functions of standards committees of relevant authorities (under section 53); and
- such other functions as may be conferred on the Standards Board by orders made by the Secretary of State.

131. Schedule 4 covers the status and general powers of the Standards Board. It sets out the grounds for disqualification for being appointed as a member of the Board and for being employed as an ethical standards officer. It requires the Secretary of State to appoint the chairman and deputy chairman of the Board, and describes the tenure of office of the chairman, deputy chairman and members. This Schedule also enables the Standards Board to appoint and pay staff, including a chief executive, to carry out its functions and includes provision for the employment of staff to support the Adjudication Panel and case tribunals in the exercise of their functions (see commentary on sections 73 to 78 below). It provides that staff cannot be employed both to assist an ethical standards officer in the conduct of an investigation and to support the Adjudication Panel or case tribunals.

132. Schedule 4 also includes provision for:
the proceedings of the Standards Board;

declaration of members' interests;
the protection of any statements by an ethical standards officer (in relation to the law of defamation).
provision of finance;
submission of accounts;
annual reporting arrangements;
the application of seal and evidence;
the Standards Board to be subject to the Parliamentary Commissioner; and
Parliamentary disqualification for any member of the Standards Board.

Section 58: **Written allegations**

133. Section 58 provides that a person may make a written allegation to the Standards Board for England that a member or former member of a relevant authority has failed or may have failed to comply with the authority's code of conduct. If the Board considers that such an allegation should be investigated it must refer the case to one of its ethical standards officers; if the Board considers that an allegation should not be investigated, it must take reasonable steps to notify in writing the person who made the allegation.

Section 59: **Functions of ethical standards officers**

134. Section 59 specifies the functions of ethical standards officers. Their main function will be to investigate allegations that a member or former member of a relevant authority has breached its code of conduct. Ethical standards officers may also investigate any associated cases that have come to their attention as a result of undertaking an investigation into a written allegation.

135. This section also states that the purpose of an investigation by an ethical standards officer is to make one of the following findings:

- that there is no evidence of a failure to comply with a code of conduct; or
- that there is no need to take action on the matter investigated; or
- that the matter should be referred back to the monitoring officer of the relevant authority to deal with (in the case of a former member who is now a member of another relevant authority, the ethical standards officer must decide to which monitoring officer to refer the matter); or
- that the matters which are subject of the investigation should be referred to the president of the Adjudication Panel for England.

Sections 60 to 62: **Investigations**

136. These provisions deal with the conduct of investigations by ethical standards officers. Section 60(1) enables ethical standards officers to arrange for any person to assist them in the conduct of any investigation under section 59.

137. Subsection (2) provides that an ethical standards officer may cease an investigation at any stage before its completion and refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned. (Section 66 makes provision that directions may be attached to any such referral.) Subsection (3) clarifies references to the monitoring officer in cases where a former member is now a member of another relevant authority.

138. Subsections (4) and (5) provide that an investigation into a member or former member of a relevant authority may not be carried out by an ethical standards officer who has been a member of that authority (or any of its committees) at any time within the last five years. Ethical standards

officers are also placed under a duty to declare to the Standards Board any direct or indirect interest in any matters referred to them and to take no further part in any investigation of such a matter.

139. Section 61 concerns the procedure for conducting an investigation. There is specific provision that the person being investigated must have an opportunity to comment on the allegation. Otherwise, this section allows an ethical standards officer to conduct an investigation as he sees fit. There is specific provision allowing ethical standards officers to reimburse the costs of people from whom they seek information. The section also provides that the conduct of an investigation should not affect the ability of the relevant authority to take action in respect of the matters being investigated. If a member has since moved to another relevant authority, it is the ability of both relevant authorities to take action that remains unaffected.

140. Section 62 gives the ethical standards officer rights of access to the information or documents necessary for the investigation. These powers are also conferred upon any person the ethical standards officer authorises to assist with an investigation. Any person from whom the ethical standards officer makes enquiries or seeks information or explanations is obliged to co-operate. The duty to provide information extends to communications with government departments. The duty does not, however, extend to the Parliamentary Commissioner, a Local Commissioner, or the Health Service Commissioner. Ethical standards officers are to be able to obtain advice during an investigation and to pay for its provision.

141. Section 62(10) introduces an offence of failing to provide the ethical standards officer with such information, documentation or other evidence as he requires as part of his investigation. Any person convicted would be liable to a fine not exceeding level 3 on the standard scale (currently £1,000).

Section 63: Restrictions on the disclosure of information

142. Section 63(1) provides that information obtained by an ethical standards officer may only be disclosed if at least one of the following conditions is met:

- the disclosure is for the purposes of any functions of the Standards Board, an ethical standards officer, the Local Commissioner in Wales, the president or deputy president of the Adjudication Panel or any tribunal;
- the person to whom the information relates has consented to its disclosure;
- the information has previously been disclosed to the public with lawful authority;
- the disclosure is for the purposes of criminal proceedings in any part of the UK—although information obtained from persons who are under the obligation to comply with ethical standards officers under section 62(2) cannot be disclosed;
- the disclosure is made to the Audit Commission for the purposes of any functions of the Commission or an auditor under the Audit Commission Act 1998.

143. Subsections (2) and (3) provide that the Secretary of State or a relevant authority may prevent the disclosure of information if it would be contrary to the public interest.

144. Subsection (4) introduces an offence of disclosing documents and information in contravention of subsection (1). Any person on summary conviction would be liable to a term of imprisonment of up to six months. Any person on conviction on indictment would be liable to a term of imprisonment not exceeding two years, or to a fine, or both.

Sections 64 and 65: Reports

145. Section 64 provides that where an ethical standards officer concludes that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned or where no action needs to be taken in respect of the matters which are the subject of the investigation, he may produce a report and may provide a summary of the report to any newspapers circulating in the area of the relevant authority concerned. If a report is produced, a copy must be sent to the monitoring officer of the relevant authority.

146. If the ethical standards officer does not produce a report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.

147. Section 64(2) and (3) places a duty on an ethical standards officer to produce a report when he concludes that the matters which are the subject of an investigation should be referred either to the monitoring officer of the relevant authority concerned or to the president of the Adjudication Panel. Copies of the reports must be sent to the monitoring officer of the relevant authority concerned, to the standards committee of the relevant authority concerned (where appropriate) or, as the case may be, to the president of the Adjudication Panel.

148. Subsection (4) makes provision for reports where a member may have committed a breach of a code of conduct at an relevant authority other than that at which he is presently a member. Subsection (5) provides that a report may cover more than one investigation.

149. The ethical standards officer must on the conclusion of an investigation inform any person who is the subject of an investigation and must take reasonable steps to inform the person who made the original allegation about the outcome of the investigation.

150. Section 65 provides an ethical standards officer with the power to issue an interim report if, during an investigation, he considers that it would be in the public interest to do so. Such reports can recommend that the person being investigated should be immediately suspended or partially suspended from being a member of the relevant authority concerned or any of its committees or sub-committees for up to six months. The matter is then referred to the President of the Adjudication Panel for adjudication by an interim case tribunal.

Section 66: Matters referred to monitoring officers

151. Section 66 gives the Secretary of State the power to make regulations to determine the way in which matters referred under sections 60(2) or 64(2) to a monitoring officer of a relevant authority should be dealt with.

152. These regulations may:

- enable a monitoring officer to conduct an investigation in respect of matters referred to him and make a report or recommendations to the standards committee of the relevant authority in respect of those matters;
- enable the standards committee to consider any report or recommendations made by the monitoring officer, taking such action as may be prescribed by the regulations;
- make provisions for the publicity to be given to any such report, recommendations or action;
- confer powers of investigation on a monitoring officer and confer rights on any member who is the subject of an investigation;
- enable a standards committee to censure or suspend a member or former member. A right of appeal would be conferred on any member subject to such action;
- enable the ethical standards officer to direct the way in which matters referred should be dealt with by the monitoring officer.

Section 67: Consultation with Local Commissioner

153. Section 67 provides that an ethical standards officer and Local Commissioner may consult if either of them believes that a matter which is the subject of investigation or complaint relates partly to a matter which could be the subject for consideration by the other. The ethical standards officer or Local Commissioner, where appropriate, may inform the person who made the allegation or complaint of the steps necessary to make a complaint or allegation to the other body.

154. Subsection (4) disapplies section 32(2) of the Local Government Act 1974 and section 63(1) of this Act in relation to the disclosure of information in the course of consultation held in accordance with this section.

Section 68: Local Commissioner and Commission for Local Administration in Wales

155. Section 68(1) and (2) confers new functions on a member of the Commission for Local Administration in Wales (CLAW). Under this section the CLAW may issue guidance to relevant authorities in Wales (other than police authorities) on matters relating to the conduct of members of authorities and in relation to the qualification and experience that monitoring officer should possess. Any such guidance may be made public. Provision is also made for additional functions to be conferred on a Local Commissioner in Wales by the NAW.

156. Subsections (3) and (4) enable the NAW, through regulations, to make provision for functions of a Local Commissioner in Wales or of the CLAW to be treated as functions under Part III of the Local Government Act 1974, and for related expenses to be treated as expenses of the CLAW under that Part. Such provision may include provisions to modify, apply or reproduce (with or without modifications) any provisions of Part III of the 1974 Act. Section 68(5) provides a definition of a Local Commissioner in Wales.

Section 69 and 70: Investigations

157. Section 69 provides that a Local Commissioner in Wales may investigate written allegations of breaches of the code of conduct of a relevant authority by members or former members of the authority, and other cases arising from such investigations in which he considers that a member or former member has failed to comply with the authority's code of conduct.

158. There are four possible outcomes of these investigations:

- that there is no evidence of a failure to comply with a code of conduct; or
- that there is no need to take action on the matters investigated; or
- that the matter should be referred back to the monitoring officer of the relevant authority to deal with; or
- that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a case tribunal.

159. Where a person is no longer a member of the relevant authority concerned but is a member of another relevant authority in Wales, the Local Commissioner has the discretion to decide which of the authority's monitoring officers to refer the matters to.

160. Section 70 provides the NAW with an enabling power to make orders so as to provide the Local Commissioner with the powers of investigation available to the ethical standards officers in England. This section also permits the Local Commissioner to terminate an investigation and to refer matters to the monitoring officer of the member's present or former authority.

Sections 71 and 72: Reports

161. Section 71 specifies what action a Local Commissioner in Wales should take, depending on the findings of his investigations.

162. Subsection (1) provides that when the Local Commissioner concludes that there is no evidence of a breach of the code of conduct or when no action needs to be taken following his investigation, he may produce a report and may provide a summary of the report to any newspaper circulating in the relevant authority's area. If a report is provided, a copy must be sent to the monitoring officer of the authority concerned. Where the Local Commissioner does not produce a report he must inform the authority's monitoring officer of the outcome of the investigation.

163. Subsections (2) and (3) place a duty on the Local Commissioner to produce a report when he concludes that the matters which are the subject of investigation should be referred either to the monitoring officer of the relevant authority or to the president of the Adjudication Panel for adjudication by a case tribunal. Copies of the report must also be sent to the monitoring officer and standards committee of the relevant authority and to the president of the Adjudication Panel.

164. Subsection (4) provides that where a member is no longer a member of the relevant authority, copies of the report may be made available to either the member's existing authority or former authority; the Local Commissioner may refer the matters concerned to the monitoring officer of either relevant authority.

165. Under subsections (5) and (6), a report under this section may cover more than one investigation. The Local Commissioner must inform any member of the relevant authority who is the subject of an investigation and must take reasonable steps to inform the person who made the original allegation about the outcome of the investigation.

166. Section 72 provides the Local Commissioner with the power to issue an interim report if, during an investigation, he considers that the matters revealed are sufficiently serious that it is in the public interest to suspend or partially suspend a member immediately. The Local Commissioner may recommend in an interim report a maximum period of suspension of six months or, if shorter, the remainder of the person's term of office. Any recommendation for suspension has to be referred to the president of the Adjudication Panel for adjudication by an interim case tribunal. A copy of any interim report must be given to any person who is the subject of the report, the monitoring officer of the relevant authority concerned and the president of the Adjudication Panel for Wales.

167. Where a person is no longer a member of the relevant authority concerned but is a member of another relevant authority in Wales, copies of the interim report may be sent to the monitoring officer of either authority.

Section 73: Matters referred to monitoring officers

168. Section 73 gives the NAW (or, in the case of police authorities in Wales, the Secretary of State) the power to make regulations to determine the way in which matters referred to the monitoring officer of a relevant authority under sections 70(4) or 71(2) should be dealt with. Such regulations may:

- enable a monitoring officer to conduct an investigation in respect of any matters referred to him;
- enable a monitoring officer to make a report or recommendations to the standards committee of the authority in respect of matters referred to him;
- enable the standards committee of a relevant authority to consider any report or recommendation made to it by the monitoring officer of the authority; and

enable the standards committee of the relevant authority, following its consideration of a monitoring officer's report or recommendations, to take any action prescribed by the regulations.

169. Regulations may also:

- confer rights on any member or co-opted member of a relevant authority who is the subject of the monitoring officer's investigation;
- enable the standards committee of the relevant authority to censure, suspend or partially suspend a member or co-opted member of the authority; and
- confer a right of appeal on a member in respect of any such action taken against him.

Section 74: Law of defamation

170. Section 74 confers absolute privilege on statements (whether written or oral) made by a Local Commissioner in Wales in connection with the exercise of his functions under this Part of the Act.

Section 75: Adjudication Panels

171. Section 75 makes provision for the appointment of two panels of persons known as the Adjudication Panel for England and the Adjudication Panel for Wales (or Panel Dyfarnu Cymru).

172. The members of the Adjudication Panel for England are to be appointed by the Lord Chancellor with the consent of the Secretary of State; he must appoint a president and may appoint a deputy president from among those members. The NAW will appoint members of the Adjudication Panel for Wales. The Assembly must also appoint a president, and may appoint a deputy president, from among them.

173. Subsections (7) and (8) state that certain members of the Adjudication Panel must possess such qualifications as may be determined by the Lord Chancellor (with the consent of the Secretary of State) and National Assembly for Wales respectively.

174. The president and deputy president of each Panel are to be responsible for:

- training the members of their Adjudication Panel;
- issuing guidance on how tribunals will reach decisions.

Sections 76 to 79: Case tribunals, interim case tribunals and adjudications

175. Section 76 provides for adjudications on findings by an ethical standards officer following investigation, and on interim recommendations by an ethical standards officer under sections 64 and 65 or by a Local Commissioner in Wales under sections 71 and 72. These are to be conducted by case tribunals or interim case tribunals. The amendment made by paragraph 28 of Schedule 5 places each case tribunal under the supervision of the Council on Tribunals.

176. Case tribunals or interim case tribunals should consist of not less than three members of the Adjudication Panel appointed by the president or deputy president, both of whom can themselves be tribunal members. A member of the Adjudication Panel cannot be a member of a tribunal if they have been a member of the relevant authority or a member of a committee or sub-committee of the relevant authority concerned in the previous five years. Adjudication Panel members are also placed under a duty to declare to the president or deputy president any direct or indirect interest in any matter which is, or is likely to be, the subject of an adjudication conducted by a case tribunal or interim case tribunal, and may not be a member of a case tribunal or interim case tribunal which conducts an adjudication in relation to that matter. Where there is no deputy president of the relevant Adjudication Panel, a reference to the deputy president is to be treated as a reference to such a member as the Lord Chancellor or (as appropriate) the NAW may specify.

177. Subsection (10) provides that a member of an interim case tribunal may not be a member of a case tribunal which, on conclusion of that investigation, subsequently conducts an adjudication in relation to that person. Subsections (11) and (13) respectively make provision for the Lord Chancellor (with the consent of the Secretary of State) and the NAW to issue guidance in respect of the composition of case tribunals or interim case tribunals.

178. Subsection (14) provides for the NAW to incur expenditure for the purpose of providing administrative support to the Adjudication Panel for Wales.

179. A tribunal may conduct a single adjudication in relation to two or more matters which are referred to the president of the relevant Adjudication Panel.

180. Section 77 enables a person who is the subject of a tribunal hearing either to appear before the tribunal in person or to be represented by a third party. This section also makes provision for the Secretary of State and the NAW to make such further regulations covering the process of adjudication as is considered necessary. It also enables the president of the relevant Adjudication Panel, after consultation with the Secretary of State or (where appropriate) the NAW, to give directions as to the practice and procedure to be followed by tribunals drawn from the Panel.

181. Regulations made under section 76 might cover:

- requiring people to attend to give evidence to the case tribunal and authorising the administration of oaths to witnesses;
- requiring them to make relevant documents relating to the investigation available to the tribunal;
- requiring persons to furnish further particulars;
- prescribing the procedure to be followed by a tribunal, including provision as to the persons entitled to appear and to be heard on behalf of persons giving evidence;
- provision enabling the president or deputy president to settle the procedure to be followed in relation to matters specified in the regulations;
- awarding or settling costs or expenses and for enabling such costs to be taxed in a county court;
- the registration and proof of decisions and awards of tribunals.

182. Section 77 also introduces an offence of failing to comply with any requirement imposed by a tribunal in considering a case. It is similar to the offence introduced by section 62 and also has the penalty of up to a level 3 fine (£1,000 at present).

183. Section 78 makes provision for the decisions of interim case tribunals. It places a duty on the interim case tribunal to decide whether or not the member mentioned should be suspended on an interim basis (for a period not exceeding six months or, if shorter, the remainder of the person's term of office) The tribunal must give notice of its decision to the standards committee of the relevant authority concerned, including the details of the suspension or partial suspension and the date on which the suspension or partial suspension is to begin. The relevant authority is under a duty to comply with the notice. Section 78 also provides that the interim suspension or partial suspension shall cease to have effect on the day that a notice is given by a case tribunal under section 79. Copies of any notice to suspend or partially suspend on an interim basis must be given to the person who is the subject of the notice and to the relevant monitoring officer. The interim case tribunal must take reasonable steps to inform the person who made the allegation of its outcome.

184. Section 78(5) provides that any decision made by an interim case tribunal should not prevent an ethical standards officer from continuing with the investigation. Further interim reports may also be produced and considered.

185. Subsection (10) provides that any person suspended under this section may appeal to the High Court, against either the suspension or partial suspension or the length of the suspension or partial suspension.

186. Section 79 provides for the decisions of case tribunals. It places a duty on the case tribunal to decide whether or not there has been a breach of the code of conduct in the case brought before it. Where the case tribunal decides that a person has not failed to comply with the code of conduct, it must notify the standards committee of the relevant authority concerned.

187. Where the case tribunal decides that a person has failed to comply with the code of conduct, this section places the case tribunal under a duty to decide whether the person should be suspended or partially suspended from being a member of the relevant authority concerned or disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority.

188. Section 79 also requires the case tribunal to decide on the period of suspension or partial suspension (up to one year, although this must not extend beyond the person's terms of office) or, where appropriate the period of disqualification (up to five years). The case tribunal must issue a notice to the standards committee of the relevant authority concerned, stating that the person has failed to comply with the code of conduct and specifying the details of the failure and stating, where appropriate, that the person must be suspended or partially suspended or is disqualified, with the period of suspension, partial suspension or disqualification. Subsection (9) provides that the relevant authority must comply with a notice stating that the person concerned must be suspended or partially suspended.

189. Section 79 also provides that a copy of the notice must be given to the Standards Board or the Commission for Local Administration in Wales (as appropriate) and to the person who is the subject of the notice. The notice must also be published in local newspapers in the relevant authority's area. The case tribunal must also take reasonable steps to inform the person who made the initial allegation of the outcome of the tribunal's adjudication. Subsection (15) introduces a right of appeal to the High Court for a person who a case tribunal decides has failed to comply with the code of conduct.

190. Schedule 5 amends section 87 of the Local Government Act 1972 to provide that in a case where a case tribunal decides that a person is to be disqualified, the disqualification takes effect immediately; but a by-election only takes place once the person has either decided not to appeal or, in the event of an appeal, once the appeal process has been exhausted.

Section 80: Recommendation by case tribunal

191. Section 80 makes provision that any case tribunal which has adjudicated on any matter may make recommendations about any matters relating to the exercise of the relevant authority's functions, code of conduct or standards committee. A copy of any recommendations must be sent to the Standards Board or the Local Commissioner in Wales.

192. The relevant authority to whom recommendations are made is under a duty to consider them within three months and it must prepare a report for the Standards Board or Local Commissioner outlining what action it has taken or proposes to take. Subsection (4) states that the relevant authority's consideration of a report may be discharged only by the authority or by the standards

committee of that authority. If the Standards Board or Local Commissioner is not satisfied with the action taken or proposed, subsection (5) provides it with the power to require the relevant authority to publish a statement giving details of the recommendations made by the case tribunal and of the authority's reasons for not fully implementing them.

Section 81: Disclosure and registration of members' interests

193. Section 81 makes provision with respect to the disclosure of interests by members, the maintenance of registers concerning those interests and the circumstances in which members are not entitled to take part in proceedings of those authorities. It also gives the monitoring officer of an authority a specific duty of establishing and maintaining the public register of interests.

194. In particular, subsections (1) and (2) place the registration and declaration of interests within the model code of conduct.

195. Subsections (3) and (4) provide that the model code of conduct will contain requirements for members to disclose any interests specified and restrict them from taking part in decisions relating to those interests. Failure to comply with these provisions amounts to a breach of the authority's code of conduct unless its standards committee has granted a dispensation in accordance with any regulations issued under subsection (5).

196. Subsection (5) provides for the Secretary of State to issue regulations setting out the circumstances in which standards committees may grant dispensations to members of relevant authorities to enable them to participate in meetings in which they have an interest.

197. Subsection (6) specifies that the register should be made available at an office where it can be inspected and viewed by members of the public. Subsection (7) requires the authority to publish in one or more newspapers circulating in the area that the register is available, giving details of how the register can be obtained; the authority must also inform the Standards Board that the register is available.

Section 82: Code of conduct for local government employees

198. Section 82 gives the Secretary of State and the NAW power to issue a code of conduct for all relevant authority employees. It requires each of them, in drawing up a code, to consult representatives of relevant authorities and also of relevant authority employees. This code of conduct is to be incorporated into the terms and conditions of every relevant authority employee, unless excluded by regulations under subsection (8).

PART IV: ELECTIONS

Summary

199. Part IV of the Act gives the Secretary of State a power to alter, by order, the frequency of elections to local authorities, and the years in which local elections are held.

Background

200. The pattern of elections to local authorities varies across England and Wales. Some local councils have 'all out' elections once every four years, whilst others elect a third of their members in each of three years out of four—commonly known as annual elections. The timing of these electoral cycles also varies depending on the type of local authority.

201. In the White Paper, *Modern Local Government: In Touch with the People*¹, the Government proposed to build on this well-established system and introduce a form of annual accountability

through the ballot box for all local authorities. The White Paper proposed that elections by thirds should become the standard pattern for all unitary councils, including London boroughs. In two-tier areas, the Government proposed a pattern in which both the district councils and county councils would elect by halves in alternate years.

202. The Welsh White Paper, *Modernising Local Government in Wales: Local Voices*², proposed giving the NAW a power to determine the frequency of elections for principal councils. The White Paper also proposed a power for the NAW to rationalise the timing of electoral cycles for all local authorities in Wales.

Commentary on sections

203. Section 106 provides that powers under Part IV exercised by the Secretary of State in England will be exercisable by the NAW in Wales. It also provides that the Parliamentary procedures set out in section 105(5) to (7) for orders and regulations do not apply to the NAW, which has its own procedures for scrutinising secondary legislation.

Sections 84 to 89: elections

204. Part IV deals with the times and frequency by which councillors are elected to local authorities. Section 85 defines the three different schemes of elections that may be applied to principal councils (as defined in section 84). These are:

- all-out elections, with the whole council being elected once every four years,
- elections by halves, with half the councillors being elected every other year,
- elections by thirds, with one third of the councillors being elected each year for three years out of four.

In each case, councillors have a four-year term of office.

205. Section 86 provides for the Secretary of State to be able to specify, by order, that a particular scheme of elections should apply to a particular principal council or description of principal council. The scheme of elections must be one of the three schemes set out in section 85. The order may also specify the year or years in which elections are to be held.

206. Where the specified scheme of elections involves the election of only a proportion of councillors in any one year, the order may include provision for identifying the wards, electoral divisions and councillors that may be affected by such a change. This is necessary because the number of councillors representing a ward in a principal council may not be evenly divisible by the frequency of elections that is being specified for the authority. In such cases, there is a need to be able to identify which seats are to be elected at which elections. Similarly, in the electoral divisions of counties (which only have one member per division), it will be necessary to identify which divisions will have elections in any particular year.

207. Section 86(6) allows the Secretary of State to specify the method to be used for identifying the electoral divisions, wards and councillors in such cases. It also allows the Secretary of State to direct principal councils to propose to him methods for identifying electoral divisions, wards and councillors.

208. Section 87 provides for the Secretary of State to be able to change, by order, the years in which elections take place for any local authority (including parish and community councils). The purpose of this provision is to change the specific timing of electoral cycles without changing the scheme (or frequency) of elections.

209. Section 88 allows the Secretary of State to make further orders, should the need arise, making supplementary and transitional etc. provisions in relation to earlier orders, under sections 85 or 86.

210. Section 89 makes minor amendments to the Local Government Acts of 1972 and 1992 to allow the creation of multi-member electoral divisions in non-metropolitan counties in England.

PART V: MISCELLANEOUS

Summary

Surcharge etc.

211. Part V of the Act makes a number of ancillary provisions relating to the audit framework for relevant authorities (as set out in the Audit Commission Act 1998). These include the repeal of the current surcharge provisions. They also remove the Secretary of State's power to sanction items of account; this enables the Secretary of State to protect individuals from surcharge. Part V also includes arrangements to introduce a new system of advisory notices to enable auditors to seek a court decision about the legality of what an authority proposed to do. This replaces existing arrangements enabling auditors to issue prohibition orders.

Welfare services

212. Part V of the Act includes provision for a new framework within which local authorities will work jointly with other agencies and partners to plan and commission welfare services for vulnerable people. It creates a new central government grant to replace the current fragmented funding arrangements for welfare services with one single budget from April 2003.

213. Funding which will be transferred to the new grant includes:

- Housing Benefit paid in respect of support services;
- Housing Corporation Supported Housing Management Grant;
- Home Office Probation Accommodation Grants;
- grants made by DETR to Home Improvement Agencies;
- relevant elements of DSS Resettlement Programme Revenue and of local authority Total Standard Spending.

Other provisions

214. Part V introduces a specific power that will enable relevant authorities to pay compensation to individuals where they are satisfied that maladministration has, or may have, occurred. There is also provision to enable both the Secretary of State and the National Assembly for Wales (NAW) to make orders to confer a power on relevant authorities to offer insurance against indemnity to their members and officers.

215. This Part of the Act provides for changes to Part VA of the Local Government Act 1972 relating to access to information. It also provides for changes necessary to the Local Authority Social Services Act 1970 resulting from measures in Part II of this Act and provisions on allowances and pensions for local authority members.

216. Part V also allows local authorities to charge parents in receipt of Working Families' Tax Credit and Disabled Person's Tax Credit for the childcare provided by these authorities. This would not apply to parents whose children are defined as "in need" by section 17(10) of the Children Act 1989 or people on benefits who currently receive free local authority childcare; these parents will continue to receive local authority childcare free of charge.

217. Finally, Part V also amends section 2A of the Local Government Act 1986, which prohibits local authorities from promoting homosexuality.

Background

Surcharge etc

218. The White Paper *Modern Local Government: In Touch with the People*¹ set out proposals to repeal the existing surcharge provisions contained within sections 17 and 18 of the Audit Commission Act 1998; these provisions enable the auditor to surcharge councillors for recovery of unlawful items of expenditure. It also suggested replacing the current system of prohibition orders (set out in sections 20 to 23 of the 1998 Act) with advisory notices.

Welfare services

219. The Government's proposals for a new role for local authorities to take a lead in partnership working to address support needs in the community were set out in the consultation paper *Supporting People: a new policy and funding framework for support services*³. The responses to the proposals were published in the paper *Summary of analysis of responses to the 'Supporting People' consultation document*⁴.

220. The provisions on welfare services follow the proposals that were put forward in the consultation document. They address a number of issues in the current system of funding:

- they respond to the 1997 court ruling on the role of Housing Benefit in funding support services;
- they are based on a system of joint commissioning at local level. This will replace current funding arrangements where support is funded through a variety of funding streams;
- they allow more transparency about support needs and provision around the country.

221. The new system of funding will clarify what is happening in this area, as well as allowing checks on the quality of support provision.

222. The new powers in Part I facilitate these new arrangements both by ensuring that local authorities have broader powers to provide support services for people who may need them, and by creating a framework for community strategies.

223. The proposals are consistent with the principles of promoting independence, as set out in the White Paper *Modernising Social Services*⁵, and with the proposals for welfare reform set out in the Green Paper *New ambitions for our country: a new contract for welfare*⁶.

Social services functions

224. The proposals for changes to the Local Authority Social Services Act 1970 are consistent with the White Paper *Modernising Social Services* (see footnote 16).

Recoupment by local authorities of cost of providing day care

225. Section 18 of the Children Act 1989 gives local authorities the power to provide day care for pre-school children and out of school care or supervised activities for children attending school. Local authorities have a duty to provide day care and supervised activities outside school hours for children in need in their area. They also have the discretion to provide a similar service to children in their area who are not in need. These services were to be provided free to parents in receipt of Income Support, income-based Jobseeker's Allowance, and (prior to the introduction of the Tax Credits Act 1999) Family Credit or Disability Working Allowance.

226. The Tax Credits Act came into force in October 1999. This led to the replacement of Family Credit and Disability Working Allowance with Working Families' Tax Credit (WFTC) and Disabled Person's Tax Credit (DPTC) respectively. These tax credits provide working families with income to purchase childcare. It is illogical, therefore, that they should receive local authority childcare free of charge. The childcare tax credit element of WFTC is worth 70% of eligible childcare costs, up to a maximum of £70 a week for families with one child and £105 for families with two or more children. This purchasing power should provide income to local authorities to expand childcare provision.

Prohibition on promotion of homosexuality: bullying

227. Section 2A of the Local Government Act 1986 (inserted by section 28 of the Local Government Act 1988) prohibits local authorities from intentionally promoting homosexuality, from publishing material with that intention, or from promoting the teaching in maintained schools of the acceptability of homosexuality as a “pretended family relationship”.

- *Maintained schools* are defined by paragraph 13 of Schedule 30 to the School Standards and Framework Act 1998 (previously defined by paragraph 63 of Schedule 37 to the Education Act 1996).

Commentary on sections

Section 90: Surcharge etc.

228. Section 90 has the effect of repealing the current surcharge provisions set out in the Audit Commission Act 1998 and also the Secretary of State's power to sanction an item of account. The changes will affect all bodies to which the surcharge provisions apply.

229. Although the term ‘surcharge’ is not used in the 1998 Act, it describes the existing powers of the auditor to recover financial losses from individuals on the basis that he or she is responsible for the authority incurring unlawful expenditure or has caused loss to the authority through misconduct.

230. Removal of the relevant surcharge provisions from section 17 of the 1998 Act does not affect the auditor's ability to apply to the courts for a declaration that an item of account is contrary to law. However, in future, the Standards Board and Adjudication Panel, rather than the auditor, will determine whether there has been misconduct and any issue would be pursued through them under the provisions in Part III of this Act.

231. This section also removes the Secretary of State's power to sanction an item of account. The granting of sanction protected individuals authorising unlawful expenditure from the possibility of surcharge by preventing the auditor from applying to the court for a declaration that an item of account is unlawful. Removing the surcharge provisions removes the need for the Secretary of State to grant sanction.

Section 91: Advisory notices

232. Section 91 replaces sections 20 to 23 of the Audit Commission Act 1998, revoking the existing arrangement for prohibition orders and replacing them with a system of advisory notices. Advisory notices will apply to all bodies subject to audit under the 1998 Act, other than health service bodies.

233. The advisory notice gives auditors time to seek the opinion of the courts on the legality of an authority's actions where they consider that the authority is contemplating a decision or course of action that would result in unlawful expenditure or other financial loss. This section gives the

auditor power to issue an 'advisory notice' in such circumstances, and specifies the form of the notice and how it should be served on the authority concerned.

234. An authority in receipt of a notice must first consider it. If it then decides that it wants to proceed with the action specified in the notice, this section requires the authority to provide the auditor with written notice of their intentions. Furthermore, it prevents the authority from proceeding with the activity for a period (of up to 21 days) specified by the auditor in the advisory notice. During this period, the auditor may then choose to seek an opinion from the court on the legality of the proposed course of action. The authority may then only proceed with the action if the court decides that it is lawful or if the auditor does not seek a court's opinion within the notice period.

Section 92: Payment in cases of maladministration

235. Section 92 specifically enables relevant authorities to pay compensation where they are satisfied that maladministration has, or may have, occurred.

Sections 93 to 96: Welfare services

236. Section 93 creates powers for the Secretary of State, with the consent of Treasury, to determine and pay a grant to local authorities to enable them to contribute to the cost of welfare services. Similar powers are given to the NAW.

237. Other powers conferred by this section include powers to determine the purpose of the grant, to attach terms and conditions to the grant, and to provide guidance and directions to local authorities. This section defines which local authorities will receive the grant.

238. Section 93 also includes requirements for the Secretary of State (or NAW) to consult with local authorities, service providers and service users before issuing guidance or directions.

239. Section 94 allows information about recipients of Housing Benefit, Income Support (IS) or income-based Job-seeker's Allowance (JSA) to be transferred to the local authority section administering the new grant, and to providers of welfare services. This transfer of information is necessary so that welfare services previously funded under Housing Benefit (or IS, or income-based JSA) can be funded under the new grant created in section 93. It will enable a smooth transfer to the new grant scheme.

240. Section 95 makes it an offence to unlawfully disclose information received under section 94.

241. Section 96 accordingly enables entitlement to Housing Benefit in respect of certain support services to be withdrawn. This section will apply to Scotland as well as England and Wales.

Sections 97 and 98: Further access to information provisions

242. Section 97 amends the access to information provisions in Part VA of the Local Government Act 1972 to ensure that reports published for a meeting of a principal council and its committees contain a list of the background papers used in compiling the report.

243. Section 98 allows the Secretary of State to vary, by order, provisions in Part VA of the Local Government Act 1972 so as to increase the number of days before a meeting of a principal council and its committees when papers need to be made publicly available.

Sections 99 and 100: Allowances and pensions for local authority members

244. Section 99 provides that regulations under section 7 of the Superannuation Act 1972 may include provision for the payment of pensionable remuneration to certain councillors. This section also amends section 18 of the Local Government and Housing Act 1989 to provide for carers'

allowances, and for pensions for members of local authorities. Regulations made under the amended section 18 may also require councils (other than parish councils and community councils) to establish an independent panel which will make recommendations on allowances. The regulations may also enable such panels to be set up by another body to make recommendations on allowances to a group of authorities or for the NAW to set up a panel to make recommendations to local authorities in Wales.

245. Section 100 enables the Secretary of State to make regulations in relation to England on allowances for members of parish councils and, for members of all authorities, allowances for travel and subsistence, including:

- travel by bicycle;
- allowances for attending conferences; and
- reimbursement of expenses.

The NAW has similar powers in Wales.

Section 101: Indemnification of members and officers of relevant authorities

246. Section 101 introduces a power for the Secretary of State to make provision to enable councils to indemnify their members and officers. The intention is to enable indemnity to be provided against any damages, cost or expenses which such member or officer may be liable to pay, or may reasonably have incurred, in connection with their membership of, or employment by, the council.

Section 102: Social services functions

247. Section 102(1) removes the statutory requirement for a local authority to discharge its social services functions through a social services committee (sections 2 to 5 of the Local Authority Social Services Act 1970) where the authority adopts one of the forms of executive in or under Part II of this Act. Subsection (2) removes the requirement that an authority's director of social services cannot discharge non-social services functions without the prior approval of the Secretary of State (section 6(5) of the 1970 Act). Subsection (3) inserts a definition of social services functions and replicates the order-making power in section 2(2) of the 1970 Act.

Section 103: Recoupment by local authorities of cost of providing day care

248. Section 103 enables local authorities to charge parents receiving tax credits for local authority-provided childcare places. Subsection (1) limits the current scope of section 29(3) of the Children Act 1989 to services provided by local authorities under section 17 or section 18(1) or (5) of that Act, i.e. childcare for children in need.

249. Subsection (2) adds a new section to the 1989 Act which ensures that people in receipt of Income Support or income-based Jobseeker's Allowance pay no charges for services provided under section 18(2) or (6) (childcare for children not in need), in addition to the services under sections 17, 18(1) or (5).

250. This section does not *require* local authorities to charge parents on tax credits. Authorities will still be required to have regard to parents' ability to pay when deciding upon any childcare charges.

Section 104: Prohibition on promotion of homosexuality: bullying

251. Section 2A of the Local Government Act 1986 (inserted by section 28 of the Local Government Act 1988) prohibits local authorities from intentionally promoting homosexuality, from publishing material with that intention, or from promoting the teaching in maintained schools of the acceptability of homosexuality as a "pretended family relationship".

252. Section 104 amends section 2A by clarifying that it does not prevent head teachers, teachers or governors of maintained schools from taking steps to prevent any form of bullying.

PART VI: SUPPLEMENTAL

Commentary

Section 105: Orders and regulations

253. Section 105 makes general provision for the exercise of orders and regulations under the other Parts of this Act. It provides for orders or regulations made under sections 3(3) (limit on powers to promote well-being), 5 (power to amend or repeal enactments), 6 (power to modify enactments concerning plans etc), 11(5) (local authority executives), 31(1)(b) and 32 (alternative arrangements), 44 (power to make provision about elections), 45 (provisions with respect to referendums), 49 (principles governing conduct of members of relevant authorities) or 101 (indemnification of members and officers of relevant authorities) to be bound by the affirmative resolution procedure in both Houses of Parliament, and for all other statutory instruments, other than commencement orders under section 108, to be subject to the negative resolution procedure in either House.

COMMENCEMENT

254. Under section 108(1), section 108 itself and the sections on orders and regulations (105), Wales (106) and short title and extent (109) came into force immediately on Royal Assent. Subsection (2) provides that Part IV and section 104 will come into force two months after Royal Assent.

255. Subsection (3) makes specific provision for the Secretary of State to bring into force sections 90 (surcharge), 91 (advisory notices), 93 to 96 (welfare services) and the provisions of Schedules 5 and 6 which relate directly to these provisions by commencement order.

256. Under subsection (4), the remaining provisions of the Act will commence 12 months after Royal Assent unless an order is made to commence these provisions earlier; such an order could be made by the Secretary of State in relation to England (or to police authorities in Wales for provisions in Part III) and by the NAW in relation to Wales.

257. An order (the Local Government Act 2000 (Commencement No 1) Order 2000) has been made bringing into force in England on 7 August 2000 the provisions set out below:

sections 10, 12, 17 to 20, 30, 32, 34 to 36, 38, 41, 47 and 48;

sections 11, 13, 22, 25, 27, 28, 31, 33, 37, 39, 44 and 45 to the extent necessary to enable orders, regulations, directions or guidance to be made;

section 23, to the extent that it relates to paragraphs 6, 7 and 9 to 11 of Schedule 1.

258. The same order brings into force in England on 1 October 2000 sections 97 and 98 of the Act, and section 107(2) to the extent it relates to the entries in Schedule 6 relating to section 100D(2) of the Local Government Act 1972.

259. An further order is likely to be made in the near future to bring into force section 103. Additional orders will be made later to commence Parts I and III of the Act.

Notes

¹ Cm 4014, July 1998.

² Cm 4028, July 1998.

³ Published December 1998, DSS. Also available on the DSS website (www.dss.gov.uk).

⁴ Published July 1999, DETR.

⁵ Cm 4169, November 1998.

⁶ Cm 3805, March 1998.

PASSAGE THROUGH PARLIAMENT

Stage	Date	Hansard reference
House of Lords		
Introduction	25 November 1999	Vol 607 Col 584
Second Reading	6 December 1999	Vol 607 Cols 1020–1035 & 1042–1125
Committee	25 January 2000	Vol 608 Cols 1419–1486 & 1502–1546
	1 February 2000	Vol 609 Cols 77–151 & 168–225
	3 February 2000	Vol 609 Cols 368–384
	7 February 2000	Vol 609 Cols 396–488
Report	28 February 2000	Vol 610 Cols 326–349, 357–394 & 410–444
	2 March 2000	Vol 610 Cols 692–743
Third Reading	9 March 2000	Vol 610 Cols 1162–1242
House of Commons		
Introduction	13 March 2000	
Second Reading	11 April 2000	Vol 348 Cols 203–287
Committee	2 May 2000	Hansard Standing Committee A
	9 May 2000	
	11 May 2000	
	16 May 2000	
	18 May 2000	
	23 May 2000	
	6 June 2000	
	8 June 2000	
	13 June 2000	
20 June 2000		
Report	4 & 5 July	Vol 353 Cols 206–303 & 336–371
Third Reading	5 July 2000	Vol 353 Cols 371–380
Lords Consideration of Commons Amendments	24 July 2000	Vol 616 Cols 55–145
Commons Consideration of Lords Reasons	25 July 2000	Vol 354 Cols 1023–1062

Royal Assent

28 July 2000

Vol 354 Col 1457

Modifications

Pt I s. 2(3C)	Local Government (Wales) Measure 2011 c. 04, Pt 7 c. 6 s. 128(2)
Pt II	Bedfordshire (Structural Changes) Order 2008/907, Pt 5 art. 16(7) Local Authorities (Standing Orders) (England) Regulations 2001/3384, reg. 4 Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008/2113, Pt 3 reg. 10
Pt II s. 10	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 11	Bedfordshire (Structural Changes) Order 2008/907, Pt 5 art. 16(2) Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 11(2)	Local Authorities (Standing Orders) (England) Regulations 2001/3384, reg. 3(1)(a)
Pt II s. 11(3)	Local Authorities (Standing Orders) (England) Regulations 2001/3384, reg. 3(1)(b)
Pt II s. 11(4)	Local Authorities (Standing Orders) (England) Regulations 2001/3384, reg. 3(1)(c)
Pt II s. 12	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 13	Bedfordshire (Structural Changes) Order 2008/907, Pt 3 art. 9(5) Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Exeter and Devon (Structural Changes) Order 2010/998, Pt 3 art. 6 Local Government Act 2000 c. 22, Pt VI s. 106(1)(a) Northumberland (Structural Change) Order 2008/494, Pt 3 art. 8(5) Norwich and Norfolk (Structural Changes) Order 2010/997, Pt 3 art. 6(5) Shropshire (Structural Change) Order 2008/492, Pt 3 art. 8(5)
Pt II s. 13(10)(c)	Cornwall (Structural Change) Order 2008/491, Pt 3 art. 8(5) County Durham (Structural Change) Order 2008/493, Pt 3 art. 8(5) Wiltshire (Structural Change) Order 2008/490, Pt 3 art. 8(5)
Pt II s. 14	Bedfordshire (Structural Changes) Order 2008/907, Pt 3 art. 7(3) Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Exeter and Devon (Structural Changes) Order 2010/998, Pt 3 art. 4(2) Exeter and Devon (Structural Changes) Order 2010/998, Pt 3 art. 6 Local Government Act 2000 c. 22, Pt VI s. 106(1)(a) Norwich and Norfolk (Structural Changes) Order 2010/997, Pt 3 art. 4(2) Norwich and Norfolk (Structural Changes) Order 2010/997, Pt 3 art. 6
Pt II s. 14(5)	Bedfordshire (Structural Changes) Order 2008/907, Pt 3 art. 9(2)
Pt II s. 14(6)	Bedfordshire (Structural Changes) Order 2008/907, Pt 3 art. 9(3)
Pt II s. 15	Bedfordshire (Structural Changes) Order 2008/907, Pt 5 art. 16(7)(c) Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) County Durham (Structural Change) Order 2008/493, Pt 3 art. 6(2) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a) Northumberland (Structural Change) Order 2008/494, Pt 3 art. 6(2) Shropshire (Structural Change) Order 2008/492, Pt 3 art. 6(2)
Pt II s. 15(1)	Cornwall (Structural Change) Order 2008/491, Pt 3 art. 6(2) Wiltshire (Structural Change) Order 2008/490, Pt 3 art. 6(2)
Pt II s. 15(7)	Cornwall (Structural Change) Order 2008/491, Pt 3 art. 8(2) County Durham (Structural Change) Order 2008/493, Pt 3 art. 8(2) County Durham (Structural Change) Order 2008/493, Pt 3 art. 11(3) Northumberland (Structural Change) Order 2008/494, Pt 3 art. 8(2) Northumberland (Structural Change) Order 2008/494, Pt 3 art. 11(3) Shropshire (Structural Change) Order 2008/492, Pt 3 art. 8(2)

	Wiltshire (Structural Change) Order 2008/490, Pt 3 art. 8(2)
Pt II s. 15(9)	Cornwall (Structural Change) Order 2008/491, Pt 3 art. 8(3) County Durham (Structural Change) Order 2008/493, Pt 3 art. 8(3) Northumberland (Structural Change) Order 2008/494, Pt 3 art. 8(3) Shropshire (Structural Change) Order 2008/492, Pt 3 art. 8(3) Wiltshire (Structural Change) Order 2008/490, Pt 3 art. 8(3)
Pt II s. 16	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 17	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 18	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 19	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 20	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21	Bedfordshire (Structural Changes) Order 2008/907, Pt 3 art. 9(4) Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) County Durham (Structural Change) Order 2008/493, Pt 3 art. 8(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a) National Health Service Act 2006 c. 41, Pt 12 c. 3 s. 247(3)
Pt II s. 21(10)	Local Authority (Overview and Scrutiny Committees Health Scrutiny Functions) Regulations 2002/3048, reg. 7(3)
Pt II s. 21ZA	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21A	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21B	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21C	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21D	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21E	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 21F	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 22	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 22A	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 23	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
Pt II s. 24	Cheshire (Structural Changes) Order 2008/634, Pt 3 art. 7(4) Local Government Act 2000 c. 22, Pt VI s. 106(1)(a)
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