



# Local Government and Public Involvement in Health Act 2007

## 2007 CHAPTER 28

### PART 16

#### MISCELLANEOUS

##### *Exercise of functions by members of local authorities in England*

#### **236 Exercise of functions by local councillors in England**

- (1) Arrangements may be made in accordance with this section for the discharge of any function of a local authority by a member of the authority, to the extent that the function is exercisable in relation to the electoral division or ward for which the member is elected.
- (2) In the case of a function of a local authority operating executive arrangements which is the responsibility of the executive—
  - (a) it is for the senior executive member to make the arrangements; and
  - (b) arrangements under this section may not permit the discharge of the function by a member of the executive if it may be discharged by him by virtue of arrangements under section 14(2)(b)(ii) of the Local Government Act 2000 (c. 22) (discharge of functions: general).
- (3) In any other case it is for the local authority to make the arrangements.
- (4) No arrangements may be made under this section for the discharge by a member of a local authority of any function—
  - (a) which is, or to the extent that it is, specified in an order made by the Secretary of State; or
  - (b) in any manner or in circumstances so specified.
- (5) Any arrangements made under this section with respect to the discharge of any function are not to prevent its discharge—

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- (a) by the person who made the arrangements; or
  - (b) in any other way in which the function is permitted to be discharged by or under any enactment.
- (6) In this section, “local authority” means—
- (a) the council of a county in England;
  - (b) a district council; or
  - (c) a London borough council.
- (7) In this section—
- “executive” and “executive arrangements” have the same meanings as in Part 2 of the Local Government Act 2000 (c. 22) (arrangements with respect to executives etc);
- “senior executive member” has the same meaning as in section 14 of that Act;
- and any reference to a function which is the responsibility of the executive of a local authority is to be construed in accordance with section 13(8) of that Act (functions which are the responsibility of an executive).
- (8) Any reference in this section to the discharge of any function includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of that function.
- (9) In section 13(9)(b) of the Local Government Act 2000, after “Part” insert “or section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England)”.

### **237 Exercise of functions under section 236: records**

- (1) After section 100E of the Local Government Act 1972 (c. 70) insert—

**“100EA Inspection of records relating to functions exercisable by members**

- (1) The Secretary of State may by regulations make provision for written records of decisions made or action taken by a member of a local authority, in exercise of a function of the authority by virtue of arrangements made under section 236 of the Local Government and Public Involvement in Health Act 2007, to be made and provided to the authority by the member.
  - (2) Any written record provided to the authority under regulations under subsection (1) shall be open to inspection by members of the public at the offices of the authority for the period of six years beginning with the date on which the decision was made or action was taken.
  - (3) A statutory instrument containing regulations under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (2) In section 100H of that Act (supplemental provisions and offences), in subsection (4), for “or 100C(1)” substitute “, 100C(1) or 100EA(2)”.
- (3) In section 41 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) (evidence of resolutions and minutes of proceedings etc)—

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- (a) in subsection (2A)(a), after “that authority,” insert “or a member of that executive”;
- (b) in subsection (2A)(b), after “as the case may be,” insert “by the member of that executive or”;
- (c) after subsection (2A) insert—

“(2B) Subsection (2C) applies to a record if—

- (a) it records a decision made or action taken by a member of a local authority or of a precursor of a local authority in exercise of a function of the authority or precursor by virtue of arrangements made under section 236 of the Local Government and Public Involvement in Health Act 2007, and
- (b) it is required to be made by regulations under section 100EA of the Local Government Act 1972.

(2C) If a document which purports to be a copy of a record to which this subsection applies bears a certificate—

- (a) purporting to be signed by—
  - (i) the proper officer of the local authority, or
  - (ii) a person authorised in that behalf by that officer or by the local authority, and
- (b) stating that the decision was made or the action was taken by the member of the local authority on the date specified in the certificate,

the document shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the decision, or nature of the action, in question.”

### *Accounting*

## **238 Amendments relating to capital finance and accounting practices**

(1) In section 74(6) of the Housing Act 1988 (c. 50) (transfer of land and other property to housing action trusts)—

- (a) in subsection (a), for the words from “expenditure” to “local authorities)” substitute “capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (capital finance)”;
- (b) in subsection (b), for the words from “that Part” to the end substitute “section 9(1) of that Act as sums received by the authority in respect of the disposal by it of an interest in a capital asset.”

(2) In section 21 of the Local Government Act 2003 (c. 26) (accounting practices), after subsection (1) insert—

“(1A) The Secretary of State may issue guidance about the accounting practices to be followed by a local authority, in particular with respect to the charging of expenditure to a revenue account.

(1B) A local authority must have regard to any guidance issued to it under subsection (1A).”

- (3) In section 24 of that Act (application to Wales) for “National Assembly for Wales” substitute “Welsh Ministers”.

*Contracting out*

**239 Contracting out**

- (1) In section 70 of the Deregulation and Contracting Out Act 1994 (c. 40) (contracting out of functions of local authorities)—

- (a) in subsection (1)(b), for the words from “or section 38” to “local authorities” substitute “or an enactment mentioned in subsection (1ZA) below”;
- (b) after subsection (1) insert—

“(1ZA) The enactments referred to in subsection (1)(b) above are—

- (a) paragraph 7 of Schedule 2 to the Regional Development Agencies Act 1998 (delegation of functions by London Development Agency etc);
- (b) section 38 or 380 of the Greater London Authority Act 1999 (delegation of functions exercisable by the Mayor of London);
- (c) paragraph 7 of Schedule 10 to that Act (delegation by Transport for London).

(1ZB) In its application in relation to a local authority which is 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, subsection (1) above has effect as if paragraph (b) were omitted.”

- (2) In section 79(1) of that Act (interpretation of Part 2), in the definition of “local authority”—

- (a) in paragraph (a), for the words from “means” to the end substitute “has the meaning given by section 79A;”;
- (b) in paragraph (b), for the words from “means” to the end substitute “has the meaning given by section 79B;”.

- (3) After section 79 of that Act insert—

**“79A “Local authority”: England**

In this Part, “local authority” in relation to England means—

- (a) a county council;
- (b) a district council;
- (c) a London borough council;
- (d) the Greater London Authority acting through the Mayor of London;
- (e) the Common Council of the City of London;
- (f) the sub-treasurer of the Inner Temple;
- (g) the under treasurer of the Middle Temple;
- (h) the Council of the Isles of Scilly;
- (i) a parish council;

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- (j) a National Park authority;
- (k) a functional body within the meaning of the Greater London Authority Act 1999;
- (l) an authority established under section 10 of the Local Government Act 1985 (waste disposal authorities);
- (m) a joint authority established by Part 4 of that Act (fire and rescue services and transport);
- (n) 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;
- (o) a police authority established under section 3 of the Police Act 1996;
- (p) an authority established by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities);
- (q) any body specified for the purposes of this paragraph by regulations under section 79C.

#### **79B “Local authority”: Wales**

In this Part, “local authority” in relation to Wales means—

- (a) a county council;
- (b) a county borough council;
- (c) a community council;
- (d) a National Park authority;
- (e) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the Town and Country Planning Act 1990;
- (f) 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;
- (g) a police authority established under section 3 of the Police Act 1996;
- (h) any body specified for the purposes of this paragraph by regulations under section 79C.

#### **79C Regulations for the purposes of section 79A and 79B**

- (1) The Secretary of State may by regulations made by statutory instrument specify for the purposes of section 79A(q) or 79B(h) any body which is (or any class of bodies each of which is)—
  - (a) a levying body, within the meaning of section 74 of the Local Government Finance Act 1988;
  - (b) a body to which section 75 of that Act applies (bodies with power to issue special levies);
  - (c) a body to which section 118 of that Act applies (other bodies with levying powers);
  - (d) a local precepting authority as defined in section 69 of the Local Government Finance Act 1992.
- (2) Regulations under subsection (1)—

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- (a) may provide for this Part to have effect, in relation to a body specified under that subsection, subject to exceptions or modifications;
  - (b) may contain transitional provisions and savings.
- (3) Any such regulations shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In Schedule 8 to the Environment Act 1995 (c. 25), omit paragraph 13 (application of contracting out to National Park authorities).
- (5) In section 18 of the Local Government Act 1999 (c. 27) (best value authorities: contracting out)—
  - (a) in subsection (1) after “any” insert “relevant”;
  - (b) after subsection (2) insert—
    - “(3) In this section “relevant best value authority” means a best value authority which is not a local authority for the purposes of section 70 of the Deregulation and Contracting Out Act 1994.”