

# **LOCAL GOVERNMENT ACT 2010**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Local Government Act 2010 which received Royal Assent on 16 December 2010. They have been prepared by the Department for Communities and Local Government 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 extends to England and Wales, but applies in relation to England only.

### **BACKGROUND**

4. The Local Government Act 2010 gives effect to the Government's commitment in the Coalition Programme for Government, published on 20 May 2010, to put a stop to existing proposals for the restructuring of councils in Norfolk, Suffolk and Devon. Specifically the Act prevents the implementation of any unitary proposals that remain outstanding. A single tier local government structure, commonly referred to as a unitary authority, differs from a two tier local government structure, i.e. a county and a district council, each exercising different functions for the same area, by having only one authority exercising all local government functions for an area.
5. The Local Government and Public Involvement in Health Act 2007 (the 2007 Act) introduced a mechanism pursuant to which principal authorities, either a county or a district council, could submit to the Secretary of State for Communities and Local Government proposals for introducing a single tier of local government in a particular area and which empowered the Secretary of State to implement such proposals by order.
6. In October 2006, the then Secretary of State published a policy document which contained five criteria and invited proposals for unitary government in England which met these criteria. In response to this invitation, in January 2007, proposals for unitary local government were made by Exeter City Council, Norwich City Council and Ipswich Borough Council, all district councils, for a unitary council on their existing boundaries. The Secretary of State then undertook a consultation on the proposals.

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7. On 25 July 2007 the Secretary of State took “minded to” decisions that Norwich’s proposal did not meet all five criteria and should be referred to the Boundary Committee for advice; and that Exeter’s and Ipswich’s proposals did meet all five criteria but that there were financial risks, and further information would be requested. On 5 December 2007, the Secretary of State took the view, on the basis of the material then available to her, that Exeter’s and Ipswich’s proposals did not meet the affordability criterion and should be referred to the Boundary Committee for England for advice.

8. On 6 February 2008 the Secretary of State asked the Boundary Committee to advise upon proposals for Exeter, Norwich and Ipswich. The Boundary Committee provided its advice on 7 December 2009.

9. The Secretary of State carried out a further 6 week consultation on all the unitary proposals, including the proposals made by Exeter, Norwich and Ipswich, which ended on 19 January 2010. Following the conclusion of the consultation the then Secretary of State decided to implement by order the proposals for unitary authorities in Exeter and Norwich. Parliament approved the Orders and they were made on 25 March 2010. The Orders have subsequently been quashed by the High Court on a judicial review brought by Devon County Council and Norfolk County Council.

10. In February 2010, when final statutory decisions were taken on unitary proposals in Devon and Norfolk, the Government did not take a decision on the Suffolk proposals. Instead, the Government proposed a County Constitutional Convention comprising the principal authorities in Suffolk and their MPs to reach a consensus on a possible unitary solution.

## **COMMENTARY ON SECTIONS**

### **Section 1 – Prevention of implementation of certain proposals for single tier of local government**

11. *Subsection (1)* of section 1 provides that after the Act comes into force, the Secretary of State may not make any further “relevant orders” under section 7 of the 2007 Act. Section 7 provides that the Secretary of State may, by order, implement proposals for a unitary authority made to him either by an English county or district council or by the Boundary Committee for the purposes of Part 1 of that Act.

12. *Subsection (2)* of section 1 defines a “relevant order” as one that would implement a proposal received by the Secretary of State before the coming into force of this Act.

## **TERRITORIAL EXTENT**

13. The Act extends to England and Wales only, and applies only in relation to England, since an order under section 7 of the 2007 Act may be made only in relation to an English local authority.

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14. This Act confers no powers on Welsh Ministers.

15. This Act does not contain any provisions falling within the terms of the Sewel Convention. Because the Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament, if there are amendments relating to such matters which trigger the Convention, the consent of the Scottish Parliament will be sought for them.

#### **COMMENCEMENT DATE**

16. The provisions of the Act come into force on the day it receives Royal Assent.

#### **REFERENCES**

**The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.**

<b>Stage</b>	<b>Date</b>	<b>Hansard reference</b>
<b>House of Lords</b>		
Introduction	26 May 2010	Vol. 719 Col. 25
Referred to the Examiners	8 June 2010	Vol. 719 Cols. 603-613
Second Reading	30 June 2010	Vol. 719 Cols. 1798-1834
Committee	14 July 2010	Vol. 720 Cols. 685-733
Report	28 July 2010	Vol. 720 Cols. 1298-1332
Third Reading	5 October 2010	Vol. 721 Cols. 15-19
<b>House of Commons</b>		
Introduction	11 October 2010	No debate
Second Reading	21 October 2010	Vol. 516 Cols. 1153-1192
Committee	2 November 2010	Public Bill Committee, Cols. 3-30

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<b>Stage</b>	<b>Date</b>	<b>Hansard reference</b>
Report and Third Reading	25 November 2010	Vol. 519 Cols. 488-496

Royal Assent	16 December 2010	House of Lords: Vol. 723 Col. 721 House of Commons: Vol. 520 Col. 1078
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