
EXPLANATORY NOTE

(This note is not part of the Order)

This Order removes a number of burdens on local authorities caused by the need for them to seek consent of (depending on the case) the Attorney-General, the Secretary of State or Welsh Ministers, before taking certain actions. The Order extends to England and Wales only.

Section 4 of the Cancer Act 1939 provides that (with some exceptions) it is an offence for a person to take part in the publication of any advertisement containing an offer to treat any person for cancer, to prescribe a remedy for it or to give any advice in connection with the treatment of it. A prosecution for such an offence must not be instituted in England or Wales without the consent of the Attorney-General (subsection (6)) and, subject to that, a county council or county borough council has a duty to institute proceedings under section 4 (subsection (7)). This Order removes the burden of seeking such consent, by repealing subsection (6) and replacing subsection (7). The new subsection (7) provides the authority with a discretionary power to prosecute for an offence under section 4. The references to a council of a county or county borough in subsection (7) are also updated to reflect certain changes in local government structure and nomenclature since the date when the Cancer Act 1939 was passed (article 2).

Section 171(4) of the Public Health Act 1875 incorporates in that Act the provisions of the Town Police Clauses Act 1847 with respect to hackney carriages, under which taxis are licensed to ply for hire within a certain area. Paragraph 25 of Schedule 14 to the Local Government Act 1972 enables a local authority to resolve that section 171(4) of the Public Health Act 1875 shall apply throughout the authority's area. By virtue of sub-paragraph (4) of paragraph 25, a resolution does not have effect unless approved by the Secretary of State or, in Wales, by Welsh Ministers (functions of the Secretary of State under paragraph 25 are exercisable by the Welsh Ministers concurrently with the Secretary of State). The burden on local authorities of seeking such approval is removed by this Order, which repeals sub-paragraph (4), and amends sub-paragraph (6), of paragraph 25 (article 3). Article 3 also includes a transitional provision for resolutions passed before the date on which this Order comes into force but which have not been approved or disapproved before that date.

Subsection (1) of section 1 of the Local Government (Overseas Assistance) Act 1993 enables a local authority to provide advice and assistance as respects any matter in which they have skill and experience to a body engaged outside the United Kingdom in the carrying out of any of the activities of local government. Subsection (3) of section 1 prevents a local authority exercising the power in subsection (1) unless it is exercised with the consent of the Secretary of State or in accordance with a general authorisation given by him. This Order removes the burden on local authorities, of seeking such consent or authorisation before exercising the power, by repealing subsection (3) and related provisions (article 4).

Paragraph 6 of Schedule 1 to the Education Act 1996 concerns the curriculum for pupil referral units. There is a duty in sub-paragraph (1) for the local education authority, the management committee (where applicable) and the teacher in charge to exercise their functions with a view to securing that the curriculum for their units satisfies certain statutory requirements for provision of a balanced and broadly based curriculum. Sub-paragraph (2) enables regulations to make provision for the determination and organisation of the curriculum, and the regulations may require the local education committee, management committee or teacher in charge to exercise prescribed functions in relation to the curriculum. Sub-paragraph (3) requires the local education authority, with the approval of the Secretary of State or, in Wales, of the Welsh Ministers, to make arrangements for the consideration and disposal of any complaint concerning the unreasonable exercise of any power or duty under sub-

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paragraph (1) or (2) or the failure to discharge such a duty. The burden on local education authorities, of seeking such approval in relation to the arrangements under sub-paragraph (3), is removed by this Order (article 5).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business, charities, voluntary bodies and the public sector is available from Melvin Hughes at Local Government Transformation, Improvement and Efficiency Division, Department for Communities and Local Government, Zone 4/J6, Eland House, Bressenden Place, London SW1E 5DU; or at melvin.hughes@communities.gsi.gov.uk .