

2008 No. 337 (C.13)

LOCAL GOVERNMENT, ENGLAND

**The Local Government and Public Involvement in Health Act
2007 (Commencement No. 3, Transitional and Saving
Provisions and Commencement No. 2 (Amendment)) Order
2008**

Made - - - -

12th February 2008

The Secretary of State, in exercise of the powers conferred by section 245 of the Local Government and Public Involvement in Health Act 2007(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Local Government and Public Involvement in Health Act 2007 (Commencement No. 3, Transitional and Saving Provisions and Commencement No. 2 (Amendment)) Order 2008.

(2) In this Order—

“the Act” means the Local Government and Public Involvement in Health Act 2007 ;

“the 1972 Act” means the Local Government Act 1972(b);

“the 1983 Act” means the Representation of the People Act 1983(c);

“the 1992 Act” means the Local Government Act 1992(d);

“the 1997 Act” means the Local Government and Rating Act 1997(e);

“council” means—

(a) a district council; or

(b) a county council in England for an area in which there are no district councils; and

“relevant date” means the day following the day on which this Order is made.

Commencement of Provisions

2. The following provisions of the Act come into force on the day following the day on which this Order is made—

(a) section 75 (parishes: alternative styles);

(b) sections 79 to 102 (reorganisation);

(a) 2007 c.28.
(b) 1972 c.70.
(c) 1983 c.2.
(d) 1992 c.19.
(e) 1997 c.29.

- (c) Schedule 5 (parishes: further amendments), except for paragraph 7; and
- (d) subject to the transitional and saving provisions specified in the Schedule to this Order, section 241 (repeals) in so far as it relates to Part 2 of the 1997 Act^(a).

**Amendment of Local Government and Public Involvement in Health Act 2007
(Commencement No. 2) Order 2008**

3. In article 7(3) of the Local Government and Public Involvement in Health Act 2007 (Commencement No. 2) Order 2008^(b) after “Standards Board for England” insert “before 1st April 2008”.

Signed by authority of the Secretary of State for Communities and Local Government

John Healey
Minister of State

12th February 2008

Department for Communities and Local Government

^(a) See Part 4 of Schedule 18 to the Act.
^(b) S.I. 2008/172.

SCHEDULE

Article 2(d)

TRANSITIONAL AND SAVING PROVISIONS

PART 1

Orders

1.—(1) Sections 14 (implementation by the Secretary of State), 16 (establishment of new parish councils by local authorities), 17 (electoral arrangements), 18 (considerations in deciding about electoral arrangements), 22 and 23 (exercise of functions and orders and regulations under Part 2) of the 1997 Act shall continue to have effect—

- (a) for the purpose of enabling the Secretary of State to give effect (with or without modifications) to—
 - (i) recommendations received by her before the relevant date under section 9 of that Act (reviews of parishes by local authorities);
 - (ii) any petition received by her before the relevant date under section 11 (petitions for new parishes) of that Act;
- (b) for the purpose of enabling the Electoral Commission to give effect to any proposals received by it before the relevant date under section 9 or 12 (views of local authority about the petition) of that Act;
- (c) for the purpose of enabling a council to establish a separate parish council for a parish under section 16 of that Act where it was in the process of doing so immediately before the relevant date;
- (d) for the purpose of enabling a council to complete any process under section 17 of that Act begun before the relevant date—
 - (i) for making electoral arrangements for a separate parish council;
 - (ii) for making other provision for the election of any such council; or
 - (iii) for making changes to the electoral arrangements for a parish council;
- (e) for the purpose of enabling the Secretary of State or the Electoral Commission to amend or revoke an order under section 14 of that Act whenever made; and
- (f) for the purpose of enabling a council to amend or revoke an order under section 16 or 17 of that Act whenever made.

(2) Orders made under section 14, 16 or 17 of the 1997 Act (including any orders made under any of those sections by virtue of sub-paragraph (1)) shall continue to have effect.

PART 2

Regulations

2.—(1) The Local Government (Parishes and Parish Councils) Regulations 1999^(a) (“the 1999 Regulations”) and the Local Government Finance (New Parishes) Regulations 1998^(b) shall continue to have effect in relation to orders made under section 14, 16 or 17 of that Act (including orders made under any of those sections by virtue of Part 1).

^(a) S.I. 1999/545.

^(b) S.I. 1998/119.

(2) Regulation 17 of the 1999 Regulations shall continue to have effect.

PART 3

Agreements

3. Section 20(1) of the 1992 Act (agreements as to incidental matters), as applied by section 23(9) of the 1997 Act, shall continue to have effect in relation to orders under section 14, 16 or 17 of that Act (including orders made under any of those sections by virtue of Part 1); and agreements under that section shall have effect notwithstanding the repeal of section 23(9) of the 1997 Act.

PART 4

Reviews

Councils conducting reviews

4.—(1) This paragraph applies in relation to a council which, immediately before the relevant date, is in the process of conducting, but has not completed a review under section 9 of the 1997 Act.

(2) Sections 9, 10(1) and (2) (procedure on a review), 18, 22 and 24 of the 1997 Act shall continue to have effect, as regards that review, until the council makes, or decides not to make, recommendations under section 9 of that Act; and for this purpose “recommendations”, in relation to a council that has made draft recommendations, means final recommendations.

(3) Section 9 of the 1997 Act, as continued in force by sub-paragraph (2), shall have effect with the following modifications—

(a) in subsection (1) omit “to the Secretary of State”;

(b) for subsection (3), substitute—

“(3) Subject to subsection (4), if the council make any recommendation for the constitution of a new parish, they must include recommendations for—

(a) the establishment of a new parish council for the parish; and

(b) the electoral arrangements for the council.”.

(c) omit subsection (3A);

(d) in subsection (4) omit “, or make the proposals mentioned in subsection (3A),”;

(e) for subsection (5) substitute—

“(5) If the council make a recommendation for the alteration of the area of a parish which has a parish council, they must include recommendations as to what changes (if any) should be made to the electoral arrangements for the council.”; and

(f) for subsection (6) substitute—

“(6) If the council make any recommendations within subsection (2), they may make recommendations for the related alteration of the boundaries of any electoral division of a county, or ward of a district, within their area.”.

(4) After completing the review, the council must decide whether or not to make any recommendations under section 9 of the 1997 Act.

(5) Unless the council decide not to make any recommendations, it must—

(a) prepare draft recommendations and take the steps it considers sufficient to secure that persons who may be interested in them are informed of them and of the period within which representations about them may be made;

- (b) deposit copies of the draft recommendations at its principal office and keep the copies available for inspection at that office throughout the period within which representations about them may be made; and
 - (c) take into consideration any such representations made to the council within that period.
- (6) If the council then decides to make any final recommendations it must—
- (a) deposit copies of the final recommendations at its principal office;
 - (b) send any final recommendations under section 9(6) of the 1997 Act to the Electoral Commission; and
 - (c) take the steps it considers sufficient to secure that persons who may be interested in the final recommendations are informed of them and of the period within which the copies may be inspected.
- (7) The final recommendations shall then be treated as recommendations made in a community governance review under Part 4 of the Act; and sections 86 (reorganisation of community governance) and 96 to 100 (publicising outcome, supplementary regulations, orders and regulations, agreements about incidental matters and guidance) of that Act shall apply accordingly.
- (8) If the council sends recommendations to the Electoral Commission in accordance with subparagraph (6)(b)—
- (a) those recommendations shall be treated as recommendations made to the Commission under section 92 of the Act in a community governance review; and
 - (b) section 92 of that Act shall apply in relation to the recommendations.

Councils still to comply with section 10(3) of the 1997 Act

- 5.—(1) This paragraph applies in relation to a council which, before the relevant date, has decided to make recommendations under section 9 of the 1997 Act and has yet to comply with section 10(3) of that Act.
- (2) Sections 9, 18, 22 and 24 of the 1997 Act shall continue to have effect until the council makes, or decides not to make, recommendations under section 9 of that Act; and for this purpose “recommendations”, in relation to a council that has made draft recommendations, means final recommendations.
- (3) Sub-paragraphs (3) and (5) to (8) of paragraph 4 shall have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.

Councils still to comply with section 10(4) and (5) of the 1997 Act

- 6.—(1) This paragraph applies in relation to a council which, before the relevant date, has complied with section 10(3) of the 1997 Act and has yet to comply with section 10(4) and (5) of that Act.
- (2) Sections 9, 18, 22 and 24 of the 1997 Act shall continue to have effect until the council, having made draft recommendations, makes or decides not to make, final recommendations under section 9 of that Act.
- (3) Sub-paragraphs (3) and (6) to (8) of paragraph 4 shall have effect for the purposes of this paragraph as they have effect for the purposes of that paragraph.

Councils whose recommendations are not received before the relevant date

- 7.—(1) This paragraph applies in relation to a council which, before the relevant date, has complied with section 10(4) and (5) of the 1997 Act but whose recommendations under section 9(2) and (3) of that Act have not been received by the Secretary of State before that date.
- (2) The recommendations shall be treated as recommendations made in a community governance review undertaken by the council under Part 4 of the Act; and sections 86 and 96 to 100 of the Act shall apply accordingly.

(3) If the council has made related proposals under section 9(3A) or 9(5) of the 1997 Act which have not been received by the Electoral Commission before the relevant date, those proposals shall be treated as recommendations made under section 89 or 90 of the Act in a community governance review undertaken by the council under Part 4 of the Act; and sections 86, 96 to 100 of the Act shall apply accordingly.

(4) If the council has made related proposals under section 9(6) of the 1997 Act for the alteration of the boundaries of any electoral division of a county, or ward of a district, within its area which have not been received by the Electoral Commission before the relevant date—

- (a) those proposals shall be treated as recommendations made to the Commission under section 92 of the Act in a community governance review undertaken by the council under Part 4 of the Act; and
- (b) section 92 of the Act shall apply accordingly.

Councils whose recommendations have been received before the relevant date

8.—(1) This paragraph applies where a council's recommendations under section 9(2) of the 1997 Act have been received by the Secretary of State before the relevant date.

(2) The Secretary of State may agree with the council that—

- (a) the recommendations are not to be dealt with by her but are instead to be treated as if they were recommendations made in a community governance review undertaken by the council under Part 4 of the Act; and
- (b) sections 86 and 96 to 100 of the Act shall apply accordingly.

(3) For the purposes of sub-paragraph (2), a recommendation is “dealt with” when the Secretary of State—

- (a) notifies the council which sent the recommendations that she has decided not to make an order under section 14 of the 1997 Act giving effect to the recommendation; or
- (b) makes an order under section 14 of that Act giving effect to the recommendation (with or without modifications).

(4) If related proposals were received by the Electoral Commission before the relevant date under section 9(3A) or (5) of the 1997 Act, the Commission may agree with the council that—

- (a) those proposals shall be treated as if they were recommendations made in a community governance review under Part 4 of the Act; and
- (b) sections 86 and 96 to 100 of the Act shall apply accordingly.

(5) If the Electoral Commission has not dealt with the proposals before 3rd March 2008—

- (a) the proposals shall be treated as if they were recommendations made in a community governance review under Part 4 of the Act; and
- (b) sections 86 and 96 to 100 of the Act shall apply accordingly.

(6) For the purposes of sub-paragraph (5), a proposal is “dealt with” if the Electoral Commission—

- (a) notifies the council which sent the proposal that it has decided not to make an order under section 14 of the 1997 Act giving effect to the proposal;
- (b) makes an order under section 14 of that Act giving effect to the proposal.

PART 5

Petitions

Petitions not received by the Secretary of State before the relevant date

9.—(1) This paragraph applies in relation to any petition under section 11 of the 1997 Act as regards which the condition set out in sub-paragraph (2) is met; and which was not received by the Secretary of State before the relevant date.

(2) The condition mentioned in sub-paragraph (1) is that before the relevant date—

- (a) the council which received the petition was under a duty by virtue of section 11(1) of the 1997 Act to send the petition to the Secretary of State; or
- (b) the council had decided to send the petition to the Secretary of State in accordance with section 11(3) of that Act.

(3) With the exception of section 80(3) to (8), Part 4 of the Act shall apply in relation to the petition as if it were a valid community governance petition under section 80 of the Act.

Petitions received by the Secretary of State before the relevant date

10.—(1) This paragraph applies in relation to a petition under section 11 of the 1997 Act received by the Secretary of State before the relevant date.

(2) The Secretary of State may agree with the council which sent the petition that—

- (a) the petition shall not to be dealt with by her but shall instead be treated as if it constituted recommendations made in a community governance review for the constitution of a new parish under section 87 of the Act; and
- (b) sections 86 and 96 to 100 of that Act shall apply accordingly.

(3) For the purposes of sub-paragraph (2), a petition is “dealt with” when the Secretary of State—

- (a) notifies the council which sent the petition that she has decided not to make an order under section 14 giving effect to the petition; or
- (b) makes an order under section 14 giving effect to the petition (with or without modifications).

(4) If related proposals for the electoral arrangements for a proposed parish council were received by the Electoral Commission before the relevant date under section 12(4) of the 1997 Act, the Electoral Commission may agree with the council that—

- (a) the proposals shall be treated as if they were recommendations made in a community governance review under Part 4 of the Act; and
- (b) sections 86 and 96 to 100 of the Act shall apply accordingly.

(5) If the Electoral Commission has not dealt with the proposals before 3rd March 2008—

- (a) the proposals shall be treated as if they were recommendations made in a community governance review under Part 4 of the Act; and
- (b) sections 86 and 96 to 100 shall apply accordingly.

(6) For the purposes of sub-paragraph (5), a proposal is “dealt with” when the Electoral Commission—

- (a) notifies the council that it has decided not to make an order under section 14 of the 1997 Act giving effect to the proposal; or
- (b) makes an order under section 14 of that Act giving effect to the proposal.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings the following provisions of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”) into force on [XX] 2008: sections 75 and 79 to 102, section 241 (partially), Schedule 5, with the exception of paragraph 7, and Schedule 18 (partially).

It also amends article 7(3) of the Local Government and Public Involvement in Health Act 2007 (Commencement No. 2) Order 2008 in relation to the commencement of section 191 of the 2007 Act which is concerned with the investigations and findings of ethical standards officers.

Section 75 of the 2007 Act inserts sections 11A, 11B, 12A, 12B and 17A into the Local Government Act 1972 and amends sections 13 to 16 of that Act. The provisions relate, broadly, to parishes, parish councils and parish meetings, to chairmen and vice-chairmen of parish councils and parish meetings and to parish councillors.

Sections 79 to 102 deal, broadly, with reviews of their areas by English district councils, by English county councils for areas where there are no district councils and by London borough councils. Those sections replace Part 2 of the Local Government and Rating Act 1997 which is repealed by section 241 of, and Part 4 of Schedule 18 to, the 2007 Act.

Schedule 5 makes further amendments to the Local Government Act 1972 in consequence of sections 79 to 100 of the 2007 Act. (Paragraph 7, which is not commenced by this Order, amends section 137 of that Act.)

The Schedule to the Order contains transitional and saving provisions relevant to the coming into force of the repeal of Part 2 of the Local Government and Rating Act 1997.

Further information about the new sections and the amendments may be found in the Explanatory Notes to the 2007 Act which may be accessed at www.opsi.gov.uk.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement orders made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Part 1	01.11.2007	2007/3136
Section 241 (partially)	01.11.2007	2007/3136
Schedule 1	01.11.2007	2007/3136
Schedule 18, Part 1	01.11.2007	2007/3136
Section 149 and Schedule 11	31.01.2008	2008/172
Section 151	31.01.2008	2008/172
Sections 153 to 155	31.01.2008	2008/172
Section 164	31.01.2008	2008/172
Sections 166 and 167	31.01.2008	2008/172
Section 183 (partially)	31.01.2008	2008/172
Section 184	31.01.2008	2008/172
Section 185 (partially)	31.01.2008	2008/172
Sections 188 and 190	31.01.2008	2008/172
Section 191 (partially)	31.01.2008	2008/172

Sections 192 to 195	31.01.2008	2008/172
Section 198 (partially)	31.01.2008	2008/172
Section 202 (partially)	31.01.2008	2008/172
Section 204	31.01.2008	2008/172
Section 225	31.01.2008	2008/172
Section 229	31.01.2008	2008/172
Section 238	31.01.2008	2008/172
Section 241 (partially)	31.01.2008	2008/172

The following provisions of the Act will be brought into force by a commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 148 and Schedule 10	31.03.2008	2008/172
Section 146 and Schedule 9	31.03.2008	2008/172
Section 147	31.03.2008	2008/172
Section 150	31.03.2008	2008/172
Section 152	31.03.2008	2008/172
Section 156	31.03.2008	2008/172
Section 157	31.03.2008	2008/172
Sections 159 to 163	31.03.2008	2008/172
Section 165	31.03.2008	2008/172
Section 187	31.03.2008	2008/172
Section 196	31.03.2008	2008/172
Sections 200 and 201	31.03.2008	2008/172
Section 202 (partially)	31.03.2008	2008/172
Section 203	31.03.2008	2008/172
Section 241 (partially)	31.03.2008	2008/172

STATUTORY INSTRUMENTS

2008 No. 337 (C.13)

LOCAL GOVERNMENT, ENGLAND

The Local Government and Public Involvement in Health Act
2007 (Commencement No. 3, Transitional and Saving
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