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## STATUTORY INSTRUMENTS

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# 2008 No. 907

## The Bedfordshire (Structural Changes) Order 2008

### PART 1

### GENERAL

#### Citation and commencement

1. This Order may be cited as the Bedfordshire (Structural Changes) Order 2008 and shall come into force on the day after that on which it is made.

#### Commencement Information

II Art. 1 in force at 28.3.2008, see [art. 1](#)

#### Interpretation

2. In this Order—

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

“the 2000 Act” means the Local Government Act 2000 as it has effect in relation to Bedford Borough Council(1);

“the 1972 Act” means the Local Government Act 1972(2);

“the 2004 Order” means the County of Bedfordshire (Electoral Changes) Order 2004(3);

“the 2009 election” means—

(a) in the case of Bedford, the election required by article 13(1) to be held in 2009;

(b) in the case of Central Bedfordshire, the election required by article 25(1) to be held in 2009;

“the 2009 election day” means the ordinary day of election of councillors(4) in 2009;

“Bedford”, except in the expressions “the Bedford electoral divisions” and “the non-metropolitan county of Bedford”, means the borough of Bedford;

“the Bedford electoral divisions” means the county electoral divisions of Brickhill, Bromham, Cauldwell, Clapham and Oakley, De Parys, Eastcotts, Goldington, Harpur, Harrold, Kempston, Kempston Rural, Kingsbrook, Newnham, North East Bedfordshire, Putnoe, Queens Park, Wilshamstead and Wootton(5);

“the Bedford Implementation Team” means the team formed in accordance with article 11(1);

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(1) [2000 c.22](#). Relevant amendments are made by Part 3 of the Local Government and Public Involvement in Health Act 2007, but see paragraph 2 of Schedule 4 to that Act for transitional provisions relevant to Bedford Borough Council.

(2) [1972 c.70](#).

(3) [S.I. 2004/3245](#).

(4) See section 37 of the Representation of the People Act 1983 (c.2).

(5) See article 3 of, and the Schedule to, [S.I. 2004/3245](#).

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“Bedfordshire”, except in the expression “Central Bedfordshire”, means the county of Bedfordshire as it exists on the date on which this Order is made;

“Central Bedfordshire” means the district established by article 4(1);

“Central Bedfordshire Council” means the district council established by article 4(3);

“the Central Implementation Team” means the team formed in accordance with article 22(1);

“the County Council” means Bedfordshire County Council;

“the district councils” means the councils of the districts of Mid Bedfordshire and South Bedfordshire; and

“the proper officer”, in relation to any purpose and Bedford Borough Council, the County Council or either of the district councils, means the officer appointed for that purpose by that Council.

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**Commencement Information**

**I2** Art. 2 in force at 28.3.2008, see [art. 1](#)

## PART 2

### ESTABLISHMENT OF SINGLE TIER LOCAL GOVERNMENT IN BEDFORD AND CENTRAL BEDFORDSHIRE

#### Single tier local government in Bedford

**3.—(1)** A new non-metropolitan county, to be known as Bedford, shall be constituted comprising the area of the borough of Bedford.

(2) In relation to the county of Bedford, section 2(1) of the 1972 Act (which provides that every county shall have a council) shall not apply.

(3) On and after 1st April 2009, Bedford Borough Council shall be the sole principal authority for Bedford.

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**Commencement Information**

**I3** Art. 3 in force at 28.3.2008, see [art. 1](#)

#### Single tier local government in Central Bedfordshire

**4.—(1)** A new non-metropolitan county and a new non-metropolitan district, each to be known as Central Bedfordshire, shall be constituted comprising (in each case) the areas of the districts of Mid Bedfordshire and South Bedfordshire.

(2) In relation to the county of Central Bedfordshire, section 2(1) of the 1972 Act (which provides that every county shall have a council) shall not apply.

(3) A new district council, to be known as the Central Bedfordshire Council, shall be established as the sole principal authority for the non-metropolitan district of Central Bedfordshire.

(4) Except for the purposes of Part 6 of this Order (electoral matters: Mid and South Bedfordshire District Councils, the Central Bedfordshire Council and parishes in Bedford and Central Bedfordshire), until 1st April 2009—

- (a) the Central Bedfordshire Council shall not be a local authority for the purposes of the 1972 Act or any other enactment relating to local government; and
  - (b) subsection (2) of section 2 of the 1972 Act (constitution of principal councils in England) shall have effect in relation to that Council as if the words from “and the council” to the end of that subsection were omitted.
- (5) On 1st April 2009—
- (a) the Mid Bedfordshire and South Bedfordshire districts shall be abolished as local government areas; and
  - (b) the Mid Bedfordshire and South Bedfordshire councils shall be wound up and dissolved.

**Commencement Information**

**I4** Art. 4 in force at 28.3.2008, see [art. 1](#)

**County of Bedfordshire, Bedfordshire County Council and councillors of that Council**

- 5.**—(1) On 1st April 2009—
- (a) the county of Bedfordshire shall be abolished as a local government area; and
  - (b) the County Council shall be wound up and dissolved.
- (2) The term of office of persons serving as councillors of the County Council immediately before 1st April 2009 shall end on that date.
- (3) Nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall authorise the holding of an election to fill a casual vacancy in the office of councillor of the County Council where that vacancy arises after 30th September 2008 and before 1st April 2009.

**Commencement Information**

**I5** Art. 5 in force at 28.3.2008, see [art. 1](#)

**PART 3**

**BEDFORD: TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE**

**Interpretation of Part 3**

- 6.** In this Part—
- “article 8 functions” has the meaning given by article 7(2)(b);
  - “the Implementation Executive” means the committee established (whether before or after the coming into force of this Order) for the purposes of article 7(4);
  - “the main transitional function” has the meaning given by article 7(1); and
  - “the Mayor” means the person who is for the time being the Mayor of Bedford.

**Commencement Information**

**I6** Art. 6 in force at 28.3.2008, see [art. 1](#)

## **Transitional functions of Bedford Borough Council and establishment of Implementation Executive**

7.—(1) On the coming into force of this Order there shall be added to the functions of Bedford Borough Council the function, which is to be exercisable only during the transitional period ending on 1st April 2009, of preparing for and facilitating the economic, effective, efficient and timely transfer of the county council’s functions, property, rights and liabilities so far as they relate to Bedford or the inhabitants of Bedford (“the main transitional function”).

(2) Section 14 of the 2000 Act (discharge of functions: mayor and cabinet executive) shall have effect in relation to Bedford Borough Council and—

- (a) the main transitional function, and
- (b) the other transitional functions referred to in article 8 (“the article 8 functions”),

with the modifications specified in paragraph (3).

(3) The modifications referred to in paragraph (2) are—

- (a) in subsection (1), after the words “19 or 20,” insert “or under the Bedfordshire (Structural Changes) Order 2008,”;
- (b) omit subsection (2); and
- (c) in subsections (3) to (5), omit “, unless the elected mayor otherwise directs,”.

(4) Bedford Borough Council’s executive arrangements shall provide for the discharge of—

- (a) the main transitional function, and
- (b) the article 8 functions,

to be the responsibility of a committee of the Council’s executive, to be known as the Implementation Executive.

(5) Such statutory provisions as apply to, or in relation to, committees of a local authority’s executive shall apply to, or in relation to, the Implementation Executive subject only to paragraphs (6), (7) and (10) to (12) of this article and article 9(2) to (4); and for this purpose “statutory provisions” includes —

- (a) any enactment contained in an Act passed after the making of this Order; and
- (b) any instrument made at any time under an enactment (including an enactment contained in an Act passed after the 2007 Act).

(6) The Implementation Executive shall consist of—

- (a) the Mayor;
- (b) ten persons nominated by Bedford Borough Council, being persons who are for the time being members of that council; and
- (c) three persons nominated by the County Council each of whom is for the time being a member of the County Council for one of the Bedford electoral divisions.

(7) In making the nominations referred to in paragraph (6)(b) and (c), Bedford Borough Council and the County Council shall, to the extent that it is practicable to do so, secure that at all times there is on the Implementation Executive —

- (a) one member of the Conservative Party,
- (b) one person who is not a member of any registered party within the meaning of that term in the Political Parties, Elections and Referendums Act 2000(6),
- (c) one member of the Labour Party, and

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(6) 2000 c.41. See the definition in section 160(1), and Part 2 of the Act.

(d) one member of the Liberal Democrats.

(8) It shall be the duty of Bedford Borough Council and the County Council to co-operate in the establishment of the Implementation Executive.

(9) The leader of the Implementation Executive shall be the Mayor; and the Mayor shall preside at all meetings of the Implementation Executive at which he is present.

(10) The persons who, immediately before 1st April 2009, are members of the Implementation Executive by virtue of paragraph (6)(c) shall continue as members of the Implementation Executive notwithstanding that they cease on that date to be members of the County Council.

(11) The Implementation Executive shall regulate its own proceedings, but a question to be decided by the Executive shall, in the first instance, be decided by the majority of those present and voting at the meeting at which the question is put, each member (including the leader of the Implementation Executive) having one vote.

(12) In the case of an equality of votes, the person presiding at the meeting (whether or not the leader of the Implementation Executive) shall have a casting vote, in addition to any other vote the person may have.

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**Commencement Information**

**I7** Art. 7 in force at 28.3.2008, see [art. 1](#)

**Other transitional functions of Implementation Executive**

**8.—(1)** The other transitional functions referred to in article 7(2)(b), which are to be exercisable only during the transitional period ending on 1st April 2009, are—

- (a) such executive and non-executive functions of Bedford Borough Council as exist on the date on which this Order is made; and
- (b) such other functions (including functions exercisable by the County Council, and functions conferred on or after that date on local authorities generally or on particular classes of local authority),

as, by any of the means mentioned in paragraph (2), the Secretary of State specifies as a function or responsibility of the Implementation Executive.

(2) The means referred to in paragraph (1) are—

- (a) this Order,
- (b) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)(7),
- (c) an order under section 20 of the 2007 Act (correction of orders), and
- (d) regulations under section 14 of the 2007 Act (regulations for supplementing orders).

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**Commencement Information**

**I8** Art. 8 in force at 28.3.2008, see [art. 1](#)

## **Discharge of functions by Implementation Executive**

9.—(1) The discharge of the main transitional function and the article 8 functions shall be a responsibility of the Implementation Executive, and shall not be a responsibility of the executive of Bedford Borough Council.

(2) Section 14(5) of the 2000 Act (which enables a committee of a local authority executive to arrange for the discharge of its functions by an officer of the authority) shall have effect in relation to the Implementation Executive as if—

- (a) references to functions included references to responsibilities,
- (b) the words “, unless the elected mayor otherwise directs,” were omitted, and
- (c) the reference to an officer of the authority included a reference to—
  - (i) a sub-committee of the Implementation Executive, and
  - (ii) an officer of the County Council.

(3) Section 14(6) of the 2000 Act (which enables a person who has made arrangements for the discharge by another person of any function of his, to discharge that function himself) shall have effect in relation to arrangements made under subsection (5) of that section (as modified by paragraph (2) above) as if —

- (a) references to functions included references to responsibilities, and
- (b) the reference to an officer of the authority included a reference to—
  - (i) a sub-committee of the Implementation Executive, and
  - (ii) an officer of the County Council.

(4) Section 21 of the 2000 Act (overview and scrutiny committees) shall not apply on or before 31st March 2009 in relation to any matter—

- (a) that is a responsibility of the Implementation Executive by virtue of paragraph (1), or
- (b) that is the responsibility of that Executive under arrangements made by Bedford Borough Council under the 2000 Act.

(5) Until 1st April 2009, section 13 of the 2000 Act (functions which are the responsibility of an executive) shall have effect as if, at the end of subsection (10)(c), there were added “or as mentioned in article 9(6) of the Bedfordshire (Structural Changes) Order 2008”.

(6) Bedford Borough Council and the County Council may discharge jointly under arrangements under section 101(5) of the 1972 Act the functions of—

- (a) reviewing (but not scrutinising) decisions made, or other action taken, by the Implementation Executive in connection with any matter relevant to the main transitional function or any of the article 8 functions; or
- (b) preparing reports for, or making recommendations to, the Implementation Executive in connection with any function or responsibility of that Executive.

(7) Where such arrangements as are mentioned in paragraph (6) are made, the joint committee shall inform Bedford Borough Council and the County Council at least once in each period of three months beginning with the period ending on 31st March 2008 of—

- (a) the matters (if any) that it has considered during the period in question, and
- (b) the conclusions (if any) that it has reached concerning those matters.

(8) The Implementation Executive and any sub-committee of that Executive shall be dissolved on the fourth day after the 2009 election day.

(9) Any joint committee established as mentioned in paragraph (6) shall be dissolved on 1st April 2009.

#### Commencement Information

**I9** Art. 9 in force at 28.3.2008, see [art. 1](#)

### Implementation Plan and further provisions relevant to discharge of functions by Implementation Executive

**10.**—(1) The Implementation Executive shall prepare, keep under review, and revise as necessary, an Implementation Plan which shall include—

- (a) such plans and timetables as it considers necessary to secure the effective, efficient and timely discharge of the main transitional function and the article 8 functions; and
  - (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge of Bedford Borough Council’s functions on or after 1st April 2009.
- (2) For the purposes of —
- (a) preparing, reviewing and revising the Implementation Plan,
  - (b) discharging the main transitional function and the article 8 functions, and
  - (c) discharging such other functions as may be conferred on it,

the Implementation Executive shall have regard to the information supplied by Bedford Borough Council to the Secretary of State in support of its proposal for single tier local government in Bedford and, in particular, to the information supplied in relation to the matters specified in paragraphs 3.6 to 3.11 (strategic leadership, neighbourhood empowerment and value for money services) of the guidance “Invitations to councils in England”, issued by the Secretary of State in October 2006<sup>(8)</sup>.

- (3) The Implementation Executive may, by written notice to—
- (a) the proper officer of Bedford Borough Council, or
  - (b) the proper officer of the County Council,

require the Council specified in the notice to take such action relevant to the main transitional function or any of the article 8 functions as may be specified in the notice.

#### Commencement Information

**I10** Art. 10 in force at 28.3.2008, see [art. 1](#)

### Implementation Team

**11.**—(1) Not later than 21 days after the coming into force of this Order the Implementation Executive shall form a team of officers for the purpose of assisting the Executive in the discharge of the main transitional function and the article 8 functions (“the Implementation Team”).

(2) The members of the Implementation Team shall include officers from both Bedford Borough Council and the County Council.

(3) The leader of the Implementation Team shall be the person who is for the time being the Chief Executive of Bedford Borough Council.

<sup>(8)</sup> The guidance was published by the Department for Communities and Local Government. Copies of the guidance may be obtained from Communities and Local Government Publications, PO Box 236, Wetherby, West Yorkshire, LS23 7NB, quoting Product Code 06 LGSRU 04198 (Tel: 08701 226 236; Email: [communities@twoten.com](mailto:communities@twoten.com) or online at [www.communities.gov.uk](http://www.communities.gov.uk)).

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#### Commencement Information

**I11** Art. 11 in force at 28.3.2008, see [art. 1](#)

## PART 4

### ELECTORAL MATTERS: BEDFORD

#### Cancellation of elections to Bedford Borough Council in 2008, etc

**12.**—(1) Notwithstanding section 7(8) and (9) of the 1972 Act (elections of councillors)—

- (a) elections shall not be held in 2008 for the return of councillors to Bedford Borough Council; and
- (b) the term of office of all councillors elected to that Council before the 2009 election day shall end on the fourth day after the 2009 election day<sup>(9)</sup>.

(2) Subject to paragraph (3), nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall authorise the holding of an election to fill a casual vacancy in the office of councillor of Bedford Borough Council where that vacancy arises after 30th September 2008 and before 1st April 2009.

(3) An election may be held where the vacancy arises as mentioned in section 40(2) of the 2000 Act (vacancy arising where elected mayor was elected a councillor at an earlier election).

#### Commencement Information

**I12** Art. 12 in force at 28.3.2008, see [art. 1](#)

#### Election to Bedford Borough Council in 2009, etc

**13.**—(1) A whole council election of councillors of Bedford Borough Council shall be held on the 2009 election day, and on the ordinary day of election of councillors in 2011 and in every fourth year thereafter<sup>(10)</sup>.

(2) Notwithstanding section 7(8) and (9) of the 1972 Act (elections of councillors), the term of office of all councillors elected to Bedford Borough Council at the 2009 election shall be two years<sup>(11)</sup>.

(3) For the purposes of the 2009 election—

- (a) the wards of Brickhill, Bromham, Castle, Cauldwell, Goldington, Harpur, Kempston South, Kingsbrook, Putnoe and Wootton shall each return two councillors; and
- (b) the other district wards<sup>(12)</sup> shall each return one councillor.

<sup>(9)</sup> (Under section 7(9) of the Local Government Act 1972, the term of office of councillors of non-metropolitan district councils is four years. (By virtue of subsections (5A) to (5C) of section 39 of the Local Government Act 2000, which were substituted for subsection (5) of that section by section 66(2) of the Local Government and Public Involvement in Health Act 2007, references to members or councillors of a local authority do not include references to the elected mayor of the authority unless regulations specifically provide to the contrary. See also [S.I. 2001/2544](#).)

<sup>(10)</sup> See section 37 of the Representation of the People Act 1983 (c.2).

<sup>(11)</sup> Under section 7(9) of the Local Government Act 1972, the term of office of councillors of non-metropolitan district councils is four years.

<sup>(12)</sup> See [S.I. 2001/4066](#).

(4) The proper officer of Bedford Borough Council shall take such steps as are necessary or appropriate to prepare for the 2009 election, including the making of all necessary alterations in the electoral register.

(5) All councillors shall retire on the fourth day after the ordinary day of election of councillors in the year of retirement and the newly-elected councillors shall come into office on the day on which their predecessors retire.

**Commencement Information**

**I13** Art. 13 in force at 28.3.2008, see [art. 1](#)

## PART 5

### CENTRAL BEDFORDSHIRE: SHADOW AUTHORITY, ITS TRANSITIONAL FUNCTIONS AND THEIR DISCHARGE

#### Interpretation of Part 5

**14.** In this Part—

“Central electoral division” means an electoral division of Bedfordshire established by article 3 of the 2004 Order that is not one of the Bedford electoral divisions;

“shadow authority” means an authority (not being a local authority) which will become a local authority on 1st April 2009;

“shadow executive” has the meaning given by article 16(1); and

“the shadow period” means the period beginning with the day on which this Order comes into force and ending on the fourth day after the 2009 election day.

**Commencement Information**

**I14** Art. 14 in force at 28.3.2008, see [art. 1](#)

#### Central Bedfordshire Council as shadow authority

**15.—**(1) During the shadow period the Central Bedfordshire Council shall be a shadow authority for the purposes of the following provisions of this Part.

(2) Subject to paragraph (5), the members of the shadow authority shall be the persons who, on the coming into force of this Order, are—

- (a) councillors of the County Council for the Central electoral divisions; or
- (b) councillors of either of the district councils.

(3) Those persons shall be members of the shadow authority throughout the shadow period notwithstanding the dissolution of the County Council and the district councils on 1st April 2009.

(4) The proper officer of the Mid Bedfordshire District Council shall convene, and make all necessary arrangement for, the first meeting of the shadow authority, which shall be held not later than 14 days after the coming into force of this Order.

(5) Where, after the coming into force of this Order and before 30th September 2008, a by-election is held to fill a casual vacancy arising in any Central electoral division or in any ward of

either Mid or South Bedfordshire, the person elected at the election shall be a member of the shadow authority.

#### Commencement Information

**I15** Art. 15 in force at 28.3.2008, see [art. 1](#)

### Duties of shadow authority: executive arrangements, code of conduct and members' allowances

**16.**—(1) At its first meeting the shadow authority shall, in accordance with paragraphs (2) and (3), create a leader and cabinet executive within the meaning of Part 2 of the Local Government Act 2000 (arrangements with respect to executives etc), as originally enacted<sup>(13)</sup> (“the shadow executive”).

(2) Section 11 of the Local Government Act 2000 (local authority executives) shall have effect, for the purposes of paragraph (1), as if subsection (8) were omitted; and the shadow executive shall consist of—

- (a) the two persons who are for the time being the leaders of the district councils,
- (b) six other persons, of whom each of the district councils shall nominate three, being persons who are for the time being councillors of the council by which they are nominated, and
- (c) four persons nominated by the County Council, each of whom is for the time being a member of the County Council for one of the Central electoral divisions.

(3) In making nominations for the purpose of paragraph (2), the district councils and the County Council shall, to the extent that it is practicable to do so, secure that at all times the Conservative Party, the Labour Party and the Liberal Democrats are all represented on the shadow executive by at least one member.

(4) The leader of the shadow executive shall be the person who is for the time being the leader of Mid Bedfordshire District Council.

(5) The deputy leader of the shadow executive shall be the person who is for the time being the leader of South Bedfordshire District Council.

(6) It shall be the duty of the district councils and the County Council to co-operate in the establishment of the shadow executive.

(7) With the exception of sections 25 (proposals), 26 (proposals not requiring referendum), 27 (referendum in case of proposals involving elected mayor), 28 (approval of outline fall-back proposals) and 29 (operation of, and publicity for, executive arrangements) the provisions of Part 2 of the 2000 Act, to the extent that they relate to a leader and cabinet executive, shall have effect in relation to the shadow authority as if—

- (a) its executive were a leader and cabinet executive of a district council;
- (b) the executive arrangements that it makes were executive arrangements of a district council<sup>(14)</sup>;
- (c) section 15 authorised its executive to delegate functions not only to officers of the shadow authority but also to officers of the district councils or the County Council;
- (d) for the purposes of the application of Part 1 of Schedule 4 to the 2007 Act (new arrangements for executives: transitional provision: old-style leader and cabinet

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<sup>(13)</sup> [2000 c.22](#). Section 11 was amended by section 62 of the Local Government and Public Involvement in Health Act 2007 ([c.28](#)). Subsection (3) of that section, as originally enacted, defines a leader and cabinet executive.

<sup>(14)</sup> In Part 2 of the Local Government Act 2000, “executive arrangements” has the meaning given by section 10; see the definition in section 48(1). Section 48(1) defines “local authority”, in relation to England, as including a district council.

executive), its executive had been operating at the relevant time within the meaning of that Part of that Schedule(15).

(8) Part 3 of the 2000 Act (conduct of local government members and employees)(16) shall apply in relation to the shadow authority as if—

- (a) it were a district council(17);
- (b) references to co-opted members were omitted; and
- (c) in section 51—
  - (i) in subsection (1), for “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”, there were substituted “at the first meeting of the shadow authority within the meaning of the Bedfordshire (Structural Changes) Order 2008”; and
  - (ii) in subsection (5), “(1) or” were omitted.

(9) The shadow authority shall prepare and adopt a scheme for the payment of allowances to its members; and the Local Authorities (Members’ Allowances) (England) Regulations 2003(18), other than regulations 6 and 17 and Part 5, shall apply in relation to the shadow authority and its members as they apply in relation to district councils and their members.

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**Commencement Information**

**I16** Art. 16 in force at 28.3.2008, see [art. 1](#)

**Duties of shadow authority: appointment of certain officers, etc**

**17.**—(1) It shall be the duty of the shadow authority at its first meeting to designate, on an interim basis, an officer of the County Council or of either of the district councils—

- (a) to be responsible for performing, in relation to the shadow authority, the duties imposed by subsections (2) and (3) of section 5 (designation and reports of monitoring officer) of the Local Government and Housing Act 1989(19) (“the 1989 Act”) and subsections (2) and (5) of section 5A(20) of the 1989 Act (reports of monitoring officer – local authorities operating executive arrangements), as applied by paragraph (5) (the “interim monitoring officer”);
- (b) to be responsible for the administration of the financial affairs of the shadow authority (the “interim chief finance officer”);
- (c) to be the head of the shadow authority’s paid service and, accordingly, to be responsible for performing, in relation to the shadow authority, the duties imposed by subsections (2), (4) and (5) of section 4 (designation and reports of head of paid service) of the 1989 Act (21) (the “interim head of staff”).

(2) The shadow authority may, at any time before 1st April 2009, appoint a person to become, on and after that date—

- (a) the Central Bedfordshire Council’s monitoring officer,

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(15) See, in particular, the definitions of “old-style leader and cabinet executive” and “relevant time” in paragraph 5 of Part 1 of Schedule 4.

(16) Part 3 was amended by Chapter 1 of Part 10 of the Local Government and Public Involvement in Health Act 2007 (c.28). See, in particular, the amendments to section 51 in section 183(3) of that Act.

(17) Part 3 applies in relation to relevant authorities; see the definition of “relevant authority” in section 49(6).

(18) S.I. 2003/1021.

(19) 1989 c.42. Relevant amendments were made by S.I. 2001/2237, article 23.

(20) Section 5A was inserted by S.I. 2001/2237, article 23.

(21) There are amendments to section 4 not relevant to this Order.

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- (b) that Council's chief finance officer,
- (c) that Council's head of paid service.

(3) If the power conferred by paragraph (2) is not exercised before 1st April 2009, the person who is on that date—

- (a) the interim monitoring officer,
- (b) the interim chief finance officer, or
- (c) the interim head of staff,

shall be responsible for performing, in relation to the Central Bedfordshire Council, the duties referred to in sub-paragraph (a) or (b) of paragraph (1) or the functions of the head of paid service of a local authority (as the case may be); and he shall perform those duties or such functions until the person (which may be himself) appointed by that Council after 31st March 2009 to discharge those duties or perform those functions takes up his appointment.

(4) Subsections (2) to (7) of section 5 of the 1989 Act and subsections (2) and (5) of section 5A of that Act shall apply in relation to the shadow authority, its interim monitoring officer and its executive arrangements as they apply in relation to a relevant authority and the monitoring officer and executive arrangements of a relevant authority as if references in those subsections to a relevant authority, its monitoring officer and its executive arrangements were references to the shadow authority, its interim monitoring officer and the executive arrangements that it adopts pursuant to article 16.

(5) Sections 114 to 116 of the Local Government Finance Act 1988<sup>(22)</sup> shall apply in relation to the shadow authority and its interim chief finance officer as if—

- (a) references to the chief finance officer of a relevant authority included references to the interim chief finance officer of the shadow authority;
- (b) references to a relevant authority (in whatever terms) included references to the shadow authority; and
- (c) references to joint committees were omitted.

(6) Subsections (2) to (6) of section 4 of the 1989 Act shall apply in relation to the shadow authority and its interim head of staff as they apply in relation to a relevant authority and its head of paid service as if references in those subsections to a relevant authority and its head of paid service were references to the shadow authority and its interim head of staff.

#### Commencement Information

**I17** Art. 17 in force at 28.3.2008, see [art. 1](#)

### **Duties of shadow authority: proposals for executive arrangements, code of conduct and members' allowances relating to the Central Bedfordshire Council**

**18.**—(1) The shadow authority shall formulate proposals for the executive arrangements that are to be operated by the Central Bedfordshire Council.

(2) In formulating proposals under paragraph (1) the shadow executive shall comply with section 10(2) of the 2000 Act and for that purpose shall assume that the Council's executive is to

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<sup>(22)</sup> [1988 c.41](#). In section 114, subsection (3A) was inserted by the Local Government and Housing Act [1989 \(c.42\)](#), Schedule 5, paras 1, 66 and 79(1), and other relevant amendments were made by the Police and Magistrates' Courts Act [1994 \(c.29\)](#), Schedule 4, Part 1, para 34 and by [S.I. 2001/2237](#), article 20. (Section 115A, which is not relevant to this Order, was inserted by the Greater London Authority Act [1999 c.29](#).) Section 115B was inserted, and section 116 amended, by [S.I. 2001/2237](#), article 20.

be a leader and cabinet executive within the meaning of section 11(3) of the 2000 Act as originally enacted<sup>(23)</sup>.

(3) The shadow executive shall formulate proposals for the code of conduct to be adopted by the Central Bedfordshire Council.

(4) In formulating proposals under paragraph (3) the shadow executive shall have regard to section 51 of the 2000 Act and, in particular, shall secure that its proposals are consistent with the requirements of subsection (4) of that section.

(5) The shadow authority shall formulate proposals for the scheme of members' allowances to be adopted by the Central Bedfordshire Council.

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**Commencement Information**

**I18** Art. 18 in force at 28.3.2008, see [art. 1](#)

**Functions of shadow authority: Implementation Plan**

**19.**—(1) The shadow authority shall prepare, keep under review, and revise as necessary, an Implementation Plan which shall include—

- (a) such plans and timetables as are in its opinion necessary to secure the effective, efficient and timely discharge of its functions; and
- (b) such budgets and plans as it considers necessary or desirable to facilitate the economic, effective, efficient and timely discharge, on or after 1st April 2009, of the functions that, before that date, are functions of the County Council or the district councils.

(2) For the purposes of—

- (a) preparing, reviewing and revising the Implementation Plan, and
- (b) discharging its functions,

the shadow authority shall have regard to the information supplied to the Secretary of State by the district councils in support of their proposals for single tier local government in central Bedfordshire and, in particular, to the information supplied in relation to the matters specified in paragraphs 3.6 to 3.11 (strategic leadership, neighbourhood empowerment and value for money services) of the guidance “Invitations to councils in England”, issued by the Secretary of State in October 2006<sup>(24)</sup>.

(3) The shadow authority may, by written notice to—

- (a) the proper officer of the County Council, or
- (b) the proper officer of either of the district councils,

require the council referred to in the notice to take such action relevant to any function of that council that is to transfer on 1st April 2009 as may be specified in the notice.

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**Commencement Information**

**I19** Art. 19 in force at 28.3.2008, see [art. 1](#)

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<sup>(23)</sup> [2000 c.22](#). Section 11 was amended by section 62 of the Local Government and Public Involvement in Health Act 2007 ([c.28](#)). Subsection (3) of that section, as originally enacted, defines a leader and cabinet executive.

<sup>(24)</sup> The guidance was published by the Department for Communities and Local Government. Copies of the guidance may be obtained from Communities and Local Government Publications, PO Box 236, Wetherby, West Yorkshire, LS23 7NB, quoting Product Code 06 LGSRU 04198 (Tel: 08701 226 236; Email: [communities@twoten.com](mailto:communities@twoten.com) or online at [www.communities.gov.uk](http://www.communities.gov.uk)).

### Other functions of shadow authority

20.—(1) During the shadow period the shadow authority shall have, in addition to the functions specified or referred to in articles 16 to 19, the functions described in this article, and such other functions as may be conferred on them by—

- (a) a subsequent order made under section 7 of the 2007 Act by virtue of section 14 of the Interpretation Act 1978 (power to amend)(25),
  - (b) an order under section 20 of the 2007 Act (correction of orders), or
  - (c) regulations under section 14 of the 2007 Act (regulations for supplementing orders).
- (2) The shadow authority shall take all such practicable steps as are necessary or expedient—
- (a) to commence and sustain its running as a shadow authority;
  - (b) to prepare the authority for the assumption, as the Central Bedfordshire Council, of local government functions and full local authority powers on 1st April 2009;
  - (c) to prepare any budgets or plans required by the Central Bedfordshire Council when those functions are assumed; and
  - (d) to liaise with the County Council and the district councils for the purpose of ensuring continuity of the delivery of public services on and after 1st April 2009.
- (3) Subject to paragraph (4), the shadow authority shall have all other powers of a non-metropolitan county council and a non-metropolitan district council.
- (4) The powers conferred by paragraph (3) may be exercised by the shadow authority only—
- (a) in the discharge of the functions specified or referred to in this article (including those specified or referred to in articles 16 to 19), and
  - (b) in the same manner, and subject to the same conditions and limitations, as if it were a non-metropolitan county council or a non-metropolitan district council, and
  - (c) where the exercise of the power would involve incurring expenditure or acquiring a liability—
    - (i) with the prior consent of the County Council, where the expenditure or liability relates to a matter which, before 1st April 2009, is the responsibility of that Council; or
    - (ii) where the expenditure or liability relates to a matter which, before 1st April 2009, is the responsibility of either of the district councils, with the prior consent of that council.
- (5) The total of the expenditure properly incurred by the shadow authority shall be divided among, and paid by, the County Council and the district councils in such proportion as may be agreed between Bedford Borough Council, the County Council and the district councils; but, where the shadow authority notifies the Secretary of State that there is no such agreement, the Secretary of State may—
- (a) determine the proportion in which that expenditure is to be divided and paid; or
  - (b) appoint an arbitrator for that purpose.
- (6) The following provisions of the 1972 Act shall apply in relation to the shadow authority, notwithstanding that it does not have the functions and full powers of a local authority:

<i>Part or section of 1972 Act</i>	<i>Description</i>
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(25) 1978 c.30.

Section 3(26)	Chairman
Section 5(27)	Vice-chairman
Parts 5 and 5A(28)	General provisions as to members and proceedings of local authorities, access to meetings and documents of certain authorities, committees and sub-committees
Section 103	Expenses of joint committees
Section 106	Standing orders
Section 146(29)	Transfer of securities on alteration of area, etc
Section 178(30)	Regulations as to allowances

(7) The shadow authority shall, notwithstanding that it does not have the functions and full powers of a local authority, be treated—

- (a) for the purposes of Part 2 of, and Schedule 2 to, the Audit Commission Act 1998(31) (accounts and audit of public bodies), as a local authority (and, therefore, a body subject to audit); but sections 11A(32), 19 and 30 to 32 in that Part, and references in that Part to those sections, shall be treated as omitted,
- (b) for the purposes of section 101 of the 2000 Act (indemnification of members and officers of relevant authorities)(33), as a relevant authority,
- (c) for the purposes of Part 1 of the Local Government Act 2003(34) (capital finance etc and accounts), as a local authority, and
- (d) for the purposes of the Local Authorities (Standing Orders) (England) Regulations 2001(35), as a relevant authority.

#### Commencement Information

**I20** Art. 20 in force at 28.3.2008, see [art. 1](#)

#### Discharge of shadow authority’s functions by shadow executive

**21.—**(1) Except to the extent that any provision of any Act, this Order or regulations under section 13 of the 2000 Act requires otherwise, the functions conferred on the shadow authority by or under this Order shall be delegated to, and discharged by, the shadow executive.

(26) Section 3 was amended by the Local Government Act 2000, Schedule 3, para 2.

(27) Section 5 was amended by the Local Government Act 2000, Schedule 3, para 3.

(28) Part 5A was inserted by section 1(1) of the Local Government (Access to Information) Act 1985 (c.43). Sections 100A and 100B were amended by S.I. 2002/715. Section 100D was amended by section 97 of the Local Government Act 2000. Section 100F was amended by S.I. 2006/88 and 2007/969. Section 100H was amended by S.I. 2006/88. Section 100K was amended by section 98 of the Local Government Act 2000. There are other amendments not relevant to this Order.

(29) Section 146(2) was amended by the Financial Services Act 1986 (c.60), Schedule 16, para 8(b). There is another amendment not relevant to this Order.

(30) Section 178 was amended by Schedules 11 and 12 to the Local Government and Housing Act 1989 (c.42).

(31) 1998 c.18. As regards England, sections 18 and 20 to 23 were repealed, and sections 19B and 19C inserted by the Local Government Act 2000 (c.22) and S.I. 2000/3335. Part 2 was most recently amended by Chapter 2 of Part 9 of the Local Government and Public Involvement in Health Act 2007.

(32) Section 11A was inserted by the Greater London Authority Act 1999 (c.29), Schedule 8, para 4.

(33) 2000 c.22. In section 101 “relevant authority” has the same meaning as in Part 3 of the Act. The definition of “relevant authority” for the purposes of that Part is to be found in section 49(6).

(34) 2003 c.26.

(35) S.I. 2001/3384.

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(2) Paragraph (1) does not prevent the shadow executive from requesting the shadow authority to discharge any function specified in a notice given by the shadow executive to the proper officer of the shadow authority; and the shadow authority shall comply with any such request within such period as the shadow executive may specify.

#### Commencement Information

**I21** Art. 21 in force at 28.3.2008, see [art. 1](#)

### Central Implementation Team

**22.**—(1) Not later than 21 days after the coming into force of this Order, the shadow executive shall form a team of officers (“the Central Implementation Team”) for the purposes of assisting it and, if so required by the shadow authority, that authority.

(2) The members of the Central Implementation Team shall comprise officers from both the County Council and each of the district councils.

(3) The leader of the Central Implementation Team shall be an officer of one of the district councils.

#### Commencement Information

**I22** Art. 22 in force at 28.3.2008, see [art. 1](#)

## PART 6

### ELECTORAL MATTERS: MID AND SOUTH BEDFORDSHIRE DISTRICT COUNCILS, THE CENTRAL BEDFORDSHIRE COUNCIL AND PARISHES IN BEDFORD AND CENTRAL BEDFORDSHIRE

#### Cancellation of elections to South Bedfordshire District Council in 2008, etc

**23.**—(1) Notwithstanding section 7(8) and (9) of the 1972 Act (elections of councillors)—

- (a) elections shall not be held in 2008 for the return of councillors to South Bedfordshire District Council; and
- (b) the term of office of all councillors elected to that Council shall end on 1st April 2009<sup>(36)</sup>.

(2) Nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall authorise the holding of an election to fill a casual vacancy in the office of councillor of South Bedfordshire District Council where that vacancy arises after 30th September 2008.

#### Commencement Information

**I23** Art. 23 in force at 28.3.2008, see [art. 1](#)

<sup>(36)</sup> Under section 7(9) of the Local Government Act 1972, the term of office of councillors of non-metropolitan district councils is four years. South Bedfordshire District Council elects by thirds; see section 7(4)(b) of the 1972 Act and [S.I. 2001/4068](#).

### **Councillors of Mid Bedfordshire District Council**

**24.**—(1) The term of office of all councillors elected to Mid Bedfordshire District Council shall end on 1st April 2009.

(2) Nothing in section 89 of the 1972 Act (filling of casual vacancies in case of councillors) shall authorise the holding of an election to fill a casual vacancy in the office of councillor of Mid Bedfordshire District Council where that vacancy arises after 30th September 2008.

#### **Commencement Information**

**I24** Art. 24 in force at 28.3.2008, see [art. 1](#)

### **Central Bedfordshire elections in 2009 and 2011, etc**

**25.**—(1) A whole council election of councillors of the Central Bedfordshire Council shall be held on the 2009 election day, on the ordinary day of election of councillors<sup>(37)</sup> in 2011 (“the 2011 election day”), and every fourth year thereafter.

(2) For the purposes of the 2009 election—

- (a) Central Bedfordshire shall be divided into wards;
- (b) the names of the new wards shall be those indicated in column 1 of the Table set out in the Schedule to this Order;
- (c) the area of each new ward shall be the same as that of the Central electoral division of the same name (as indicated in column 2 of that Table);
- (d) the wards of Biggleswade, Dunstable Downs, Houghton Regis, Leighton Linlade Central, and Stotfold and Arlesey shall each return four councillors; and
- (e) every other ward shall return two councillors.

(3) At the 2009 election the returning officer shall be the proper officer appointed by the South Bedfordshire District Council (“the Central Bedfordshire returning officer”). The Central Bedfordshire returning officer shall take such steps as are necessary or appropriate to prepare for the 2009 election, including the making of all necessary alterations in the electoral register.

(4) Notwithstanding section 7(1) of the 1972 Act, the term of office of councillors elected to the Central Bedfordshire Council at the 2009 election shall be two years, and they shall retire on the fourth day after the 2011 election day.

(5) The total of the expenditure properly incurred by the Central Bedfordshire returning officer in relation to the holding of the 2009 election shall be divided among, and paid by, the County Council and the district councils in such proportion as may be agreed between Bedford Borough Council, the County Council and the district councils; but, where the returning officer notifies the Secretary of State that there is no such agreement, the Secretary of State may—

- (a) determine the proportion; or
- (b) appoint an arbitrator for that purpose.

(6) In relation to the 2009 election, “the appropriate officer” in Parts 1 and 2 of the Representation of the People Act 1983 does not have the meaning given by section 67(7) of that Act but means the Central Bedfordshire returning officer.

(7) All councillors elected in 2011 or any later year shall retire on the fourth day after the ordinary day of election of councillors in the year of retirement and the newly-elected councillors shall come into office on the day on which their predecessors retire.

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<sup>(37)</sup> See section 37 of the Representation of the People Act 1983 (c.2).

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#### Commencement Information

**I25** Art. 25 in force at 28.3.2008, see [art. 1](#)

### Cancellation of parish council elections in Bedfordshire in 2008, etc

**26.**—(1) Notwithstanding section 16(3) of the 1972 Act (election of parish councillors)—

- (a) elections shall not be held in 2008 for the return of councillors to the council of the parishes of Brickhill, Cardington, Chalgrave, Chalton, Dunstable, Eastcotts, Eggington, Great Billington, Kempston, Stanbridge, Streatley, Sundon, Tilsworth, Toddington and Totternhoe;
- (b) the term of office of those parish councillors elected in 2004 or at any subsequent by-election held before the 2009 election day for any parish within Bedford or South Bedfordshire shall end on the fourth day thereafter;
- (c) the term of office of those parish councillors elected in 2009 or at any subsequent by-election held before the ordinary day of election of councillors in 2011 (“the 2011 election day”) shall end on the fourth day after the 2011 election day<sup>(38)</sup>.

(2) Elections of parish councillors for every parish council in Bedford and Central Bedfordshire shall be held on the ordinary day of election of councillors in 2011 and in every fourth year thereafter.

(3) The term of office of parish councillors shall be four years and all parish councillors shall retire on the fourth day after the ordinary day of election of councillors in the year of retirement, and the newly-elected parish councillors shall come into office on the day on which their predecessors retire.

#### Commencement Information

**I26** Art. 26 in force at 28.3.2008, see [art. 1](#)

## PART 7

### GENERAL TRANSITIONAL DUTIES OF BOROUGH, COUNTY AND DISTRICT COUNCILS

#### General transitional duties of Bedford Borough Council and Bedfordshire County Council

**27.**—(1) It shall be the duty of Bedford Borough Council and the County Council—

- (a) to take, whether alone or together, such steps as may be necessary to prepare for the transfer to Bedford Borough Council of the County Council’s functions, property, rights and liabilities relating to Bedford or its inhabitants;
- (b) to consult and co-operate in order to secure the economic, effective, efficient and timely transfer of those functions, property, rights and liabilities; and
- (c) generally, to exercise their functions so as to further the purposes of this Order.

<sup>(38)</sup> Section 16 of the Local Government Act 1972 was amended by paragraph 6 of Schedule 5 to the Local Government and Public Involvement in Health Act 2007. Under section 16(3) of the Local Government Act 1972, the term of office of parish councillors is four years.

(2) Without prejudice to the generality of paragraph (1), it shall be the duty of Bedford Borough Council and the County Council —

- (a) to co-operate in the formation of the Bedford Implementation Team, and to release the officers concerned from their normal duties at such times or for such periods as the Implementation Executive may reasonably require; and
- (b) to provide such information relating to its functions as the other Council may reasonably request for the purpose of giving effect to this Order.

(3) Any person authorised in that behalf by the Council making the request shall be entitled, at all reasonable times, on producing evidence of his authority (if so required by the Council from which the information is sought)—

- (a) to inspect any record belonging to or under the control of the Council providing the information and relating to that Council or its functions; and
- (b) to take, or be supplied with, a copy of any such record or part of it.

(4) The rights conferred by paragraph (3) include the right to require any record which is not in legible form to be made available in legible form so that the authorised person may inspect or copy it or be supplied with copies.

**Commencement Information**

**I27** Art. 27 in force at 28.3.2008, see [art. 1](#)

**Transitional duties of the County Council and the district councils**

**28.**—(1) It shall be the duty of the County Council and each of the district councils—

- (a) to take, whether alone or together, such steps as may be necessary to prepare for the transfer to the Central Bedfordshire Council of their respective functions, property, rights and liabilities (except as regards the County Council, those relating to Bedford or its inhabitants);
- (b) to consult and co-operate with one another and with the shadow authority in order to secure the economic, effective, efficient and timely transfer of the County Council's and the district councils' functions, property, rights and liabilities; and
- (c) generally, to exercise their functions so as to further the purposes of this Order.

(2) Without prejudice to the generality of paragraph (1), it shall be the duty of the County Council and each of the district councils —

- (a) to co-operate in the formation of the Central Implementation Team, and to release the officers concerned from their normal duties at such times or for such periods as the shadow executive or the shadow authority may reasonably require; and
- (b) to provide such information relating to its functions as any other of those councils or the shadow authority may reasonably request for the purpose of giving effect to this Order.

(3) Any person authorised in that behalf by the body making a request under paragraph (2)(b) shall be entitled, at all reasonable times, on producing evidence of his authority (if so required by the council or shadow authority from which the information is sought)—

- (a) to inspect any record belonging to or under the control of the council or shadow authority providing the information and relating to that council or authority or its functions; and
- (b) to take, or be supplied with, a copy of any such record or part of it.

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(4) The rights conferred by paragraph (3) include the right to require any record which is not in legible form to be made available in legible form so that the authorised person may inspect or copy it or be supplied with copies.

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**Commencement Information**

**I28** Art. 28 in force at 28.3.2008, see [art. 1](#)

## PART 8

### CONSEQUENTIAL AMENDMENTS

#### **Amendment of the Borough of Bedford (Electoral Changes) Order 2001**

**29.** The Borough of Bedford (Electoral Changes) Order 2001(**39**) is amended by the omission of article 3 (elections of the council of Bedford) and article 9 (parish elections).

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**Commencement Information**

**I29** Art. 29 in force at 28.3.2008, see [art. 1](#)

#### **Amendment of the District of Mid Bedfordshire (Electoral Changes) Order 2001**

**30.** The District of Mid Bedfordshire (Electoral Changes) Order 2001(**40**) is amended by the omission of article 3 (election of the council of Mid Bedfordshire).

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**Commencement Information**

**I30** Art. 30 in force at 28.3.2008, see [art. 1](#)

#### **Amendment of the District of South Bedfordshire (Electoral Changes) Order 2001**

**31.** The District of South Bedfordshire (Electoral Changes) Order 2001(**41**) is amended by the omission of article 2 (wards of the district of South Bedfordshire), article 3 (elections of the council of South Bedfordshire) and article 8 (parish elections).

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**Commencement Information**

**I31** Art. 31 in force at 28.3.2008, see [art. 1](#)

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(39) [S.I. 2001/4066](#).

(40) [S.I. 2001/4067](#).

(41) [S.I. 2001/4068](#).

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

27th March 2008

*John Healey*  
Minister of State  
Department for Communities and Local  
Government

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- art. 26(1)(b) substituted by [S.I. 2009/837 art. 2\(3\)\(b\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 16(5A)(5B) inserted by [S.I. 2009/837 art. 2\(2\)](#)
- art. 26(1)(aa) inserted by [S.I. 2009/837 art. 2\(3\)\(a\)](#)
- art. 26(1)(ba)(bb) inserted by [S.I. 2009/837 art. 2\(3\)\(c\)](#)