
STATUTORY INSTRUMENTS

2008 No. 917 (C. 44)

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Local Government and Public Involvement
in Health Act 2007 (Commencement No.5 and
Transitional, Saving and Transitory Provision) Order 2008**

Made - - - - 27th March 2008

The Secretary of State, in exercise of the powers conferred by section 245(5) and (6) of the Local Government and Public Involvement in Health Act 2007(1), 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.5 and Transitional, Saving and Transitory Provision) Order 2008.

(2) In this Order—

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

“the 1974 Act” means the Local Government Act 1974(2);

“Commission” means the Commission for Local Administration in England established under section 23(1) of the 1974 Act(3);

“Local Commissioner” has the meaning given in section 23(3) of the 1974 Act (4);

“President” means President of the Valuation Tribunal for England; and

“Vice-President” means Vice-President of the Valuation Tribunal for England.

Provisions coming into force on 1st April 2008

2.—(1) The following provisions of the Act shall come into force on 1st April 2008—

(1) 2007 c. 28.

(2) 1974 c. 7.

(3) Section 23(1) was amended by section 22(2) and (3) of the Local Government and Housing Act 1989 (c. 42.), also by the Regulatory Reform (Local Commissioner for Wales) Order 2004 (SI 2004/2359) and section 39 of and Schedule 6 to the Public Services Ombudsman (Wales) Act 2005 (c. 10).

(4) Section 23(3) was amended by section 22(2) and (3) of the Local Government and Housing Act 1989 (c. 42.), also by the Regulatory Reform (Local Commissioner for Wales) Order 2004 (SI 2004/2359) and section 39 of and Schedule 6 to the Public Services Ombudsman (Wales) Act 2005 (c. 10).

- (a) section 136 (parish councils and community councils etc not to be best value authorities) and Schedule 7 (amendments consequential on removing parish councils etc from best value duties);
- (b) section 137 (guidance about general best value duty) in relation to England and police authorities in Wales;
- (c) section 139 (abolition of performance indicators etc except for Welsh authorities);
- (d) section 140 (abolition of best value performance reviews) in so far as it applies in relation to England;
- (e) section 144 (best value: minor and consequential amendments) and Schedule 8 (best value: minor and consequential amendments);
- (f) section 168 (appointment and removal of Commissioners) in so far as it relates to appointments of Local Commissioners made on or after 1st April 2008;
- (g) section 169 (responsibilities of Commissioners);
- (h) section 170 (annual reports) in relation to any report submitted on or after 1st April 2008;
- (i) sections 171 to 176 (which relate to investigations and reports by Local Commissioners) in relation to matters coming to the attention of the Commission on or after 1st April 2008;
- (j) section 177 (publication of reports etc by Commissioners);
- (k) section 178 (making complaints etc electronically);
- (l) section 179 (disqualifications);
- (m) section 181 (delegation) in relation to matters coming to the attention of the Commission on or after 1st April 2008;
- (n) section 182 and Schedule 12 (minor and consequential amendments);
- (o) sections 205 to 209 (joint waste authorities in England);
- (p) Schedule 13 (consequential amendments relating to joint waste authorities);
- (q) section 211 (interpretation of Part 11);
- (r) section 219(1) (establishment of the Tribunal) in so far as it relates to the provisions specified in sub-paragraph (w) and paragraph (2) below;
- (s) section 220(1) (consequential and transitional provision etc.) in so far as it relates to the provisions specified in sub-paragraphs (x) to (dd) below;
- (t) section 220(2) to (4);
- (u) section 239 (contracting out);
- (v) section 241 (repeals), in so far as it relates to—
 - (i) the provisions specified in Part 8 of Schedule 18 other than the entry relating to section 29(3) of the Local Government Act 1999⁽⁵⁾; and
 - (ii) the provisions specified in Part 14 of Schedule 18.
- (w) paragraphs 1 and 2 of Schedule 15 (the Valuation Tribunal for England) in so far as they relate to the provisions specified in paragraph (2) below;
- (x) paragraph 1 of Schedule 16 (House of Commons Disqualification Act 1975⁽⁶⁾);
- (y) paragraph 10 of that Schedule (Local Government Act 2003⁽⁷⁾) in so far as it relates to the provisions specified in sub-paragraphs (z) to (cc) below;

(5) 1999 c.27. The entry relating to section 29(3) of the 1999 Act, and section 241 of the 2007 Act so far as relating to that entry, were brought into force on 30 December 2007.

(6) 1975 c.24.

(7) 2003 c.26.

- (z) paragraph 11(1) of that Schedule in so far as it relates to the provision specified in subparagraph (aa) below;
 - (aa) paragraph 11(2)(e) of that Schedule to the Act;
 - (bb) paragraph 13(1) of that Schedule in so far as it relates to the provisions specified in subparagraph (cc) below;
 - (cc) paragraph 13(2)(a) and (3) of that Schedule; and
 - (dd) paragraphs 14 to 16 of that Schedule (Constitutional Reform Act 2005⁽⁸⁾) in so far as they relate to the office of President or the office of Vice-President.
- (2) The provisions referred to in paragraph (1)(r) and (w) are all the provisions of Part 1 of Schedule 11 to the Local Government Act 1988⁽⁹⁾ with the exception of—
- (a) paragraph A2 (transfer of the jurisdiction of the existing English tribunals),
 - (b) paragraph A3 (arbitration), and
 - (c) paragraph A18 (member of the Tribunal unable to act in an appeal).

Provisions coming into force on 1st April 2009

3. The following provisions of the Act shall come into force on 1st April 2009—
- (a) section 138 (involvement of local representatives);
 - (b) section 180 (expenses of the Commission).

Partial commencement of section 76

4. Section 76 of the Act (appointed councillors) shall come into force on 1st April 2008 in so far as it confers powers to make regulations under section 16A of the Local Government Act 1972⁽¹⁰⁾.

Partial commencement of section 77

5. Section 77 of the Act (extension of power to certain parish councils) shall come into force on 1st April 2008 in so far as it confers powers to make an order under section 1(2) of the Local Government Act 2000⁽¹¹⁾.

Transitional and savings provisions

6.—(1) Notwithstanding the coming into force of section 139 of the Act, best value authorities in England shall, in accordance with section 6 of the Local Government Act 1999, prepare and publish a best value performance plan for the financial year ending 31st March 2008 comprising—

- (a) details of the authority's performance during the period 1st April 2007 to 31st March 2008 according to the Best Value Performance Indicators that applied to the authority during that period, in accordance with the requirement in Annex A to the guidance on best value performance plans issued by the Office of the Deputy Prime Minister on 11th April 2006 (“ODPM Circular 05/2006”); and
- (b) a statement and certification that all individual contracts awarded during the period 1st April 2007 to 31st March 2008 which involve a transfer of staff comply, where applicable, with the requirements in the Code of Practice on Workforce Matters in Local Authority

(8) 2005 c.4.

(9) 1988 c.41. Part 1 of Schedule 11 to the Local Government Act 1988 is inserted by paragraph 2 of Schedule 15 to the Act.

(10) 1972 c.70. Section 16A is inserted by section 76(1) and (4) of the Local Government and Public Involvement in Health Act 2007 (c.28).

(11) 2000 c.22. Subsection (2) is inserted by section 77(1) and (4) of the Local Government and Public Involvement in Health Act 2007 (c.28).

Service Contracts, in accordance with the requirement in Annex A to ODPM Circular 05/2006.

(2) The reference in paragraph (1) to the Code of Practice on Workforce Matters in Local Authority Service Contracts is a reference to—

- (a) Annex D of ODPM Circular 03/2003 issued by the Office of the Deputy Prime Minister on 13th March 2003 in respect of the following authorities in England: county councils, district councils, London borough councils, the Council of the Isles of Scilly, and the Common Council of the City of London in its capacity as a local authority;
- (b) Annex C of ODPM Circular 07/2003 issued by the Office of the Deputy Prime Minister on 30th September 2003 in respect of the Greater London Authority, the London Development Agency and Transport for London;
- (c) Annex C of ODPM Circular 10/2003 issued jointly by the Office of the Deputy Prime Minister and the Department for Environment, Food and Rural Affairs on 31st October 2003 in respect of National Park authorities and the Broads Authority;
- (d) Annex B of ODPM Circular 01/2004 issued jointly by the Office of the Deputy Prime Minister and the Department for Transport on 26th January 2004 in respect of metropolitan county passenger transport authorities;
- (e) Annex E of ODPM Circular 09/2004 issued by the Office of the Deputy Prime Minister on 20th December 2004 in respect of fire and rescue authorities 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, metropolitan county fire and civil defence authorities or the London Fire and Emergency Fire Authority.

(3) Until 31st March 2010 section 4 of the Local Government Act 1999 shall continue to apply in relation to police authorities in England and Wales as if the amendments given effect by section 139 of the Act had not been made.

(4) Section 23 of the 1974 Act shall continue to apply in relation to any Local Commissioners appointed before 1st April 2008 as if the amendments given effect by section 168 of the Act had not been made.

(5) The following provisions of the 1974 Act shall continue to apply in relation to complaints received by the Commission before 1st April 2008 as if the amendments given effect by sections 171 to 176, 181 and 182 of, and Schedule 12 to, the Act had not been made—

- (a) section 25;
- (b) section 26;
- (c) section 27;
- (d) section 30;
- (e) section 31;
- (f) Schedule 4;
- (g) Schedule 5.

(6) Notwithstanding the coming into force of section 239 of the Act, the Transport for London (Best Value) (Contracting Out of Investment and Highway Functions) Order 2006(12) shall continue to apply as if section 239(5) of the Act had not been commenced.

Transitory provisions (modifications to the Local Government Act 2003)

7.—(1) Until paragraphs 10 to 13 of Schedule 16 (Local Government Act 2003) to the Act have been commenced in full, the Local Government Act 2003 is modified as follows.

(2) In section 105(2) (the Valuation Tribunal Service) after “valuation tribunals in England” insert “and the Valuation Tribunal for England”.

(3) In paragraph 1 of Schedule 4 (membership, chairman and deputy chairman) for sub-paragraph (3)(a) substitute—

“(a) a majority are persons occupying the following positions or offices—

(i) the position of president or chairman of a valuation tribunal,

(ii) the office of President or Vice-President of the Tribunal, and”.

(4) In paragraph 4 of Schedule 4 (cessation of membership) after sub-paragraph (1)(b) insert—

“(ba) he ceases to be President of the Tribunal (whether or not he was appointed to the Service by virtue of being President),

(bb) having been a Vice-President of the Tribunal at the time of his appointment, he ceases to hold that office without being appointed to the office of President of the Tribunal, or”.

(5) In paragraph 27 of Schedule 4 (interpretation) after the definition of “financial year” insert—

““Tribunal” means the Valuation Tribunal for England.”.

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

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences further provisions of the Local Government and Public Involvement in Health Act 2007 (c.28) (“the Act”).

In Part 4 of the Act (parishes), sections 76 and 77 are commenced partially. The partial commencement of section 76 enables the Secretary of State to make regulations about the appointment of councillors and the holding of office after appointment under that section. The partial commencement of section 77 enables the Secretary of State to make an order prescribing conditions which must be met by a parish council that wishes to exercise the power to promote well-being under section 2 of the Local Government Act 2000.

Part 7 of the Act (best value) is commenced as follows.

Section 136 amends section 1 of the Local Government Act 1999 (“the 1999 Act”) so that parish councils and community councils are no longer subject to the duties of best value and makes consequential amendments as a result of the change.

Section 137 amends section 3 of the 1999 Act to introduce a new general power of guidance in relation to the duty of best value. This has been commenced only in relation to England and police authorities in Wales.

Section 138 introduces a new duty (section 3A of the 1999 Act) that requires certain best value authorities to involve representatives of local persons in the exercise of its functions.

Section 139 amends section 4 of the 1999 Act so that the provisions in relation to best value indicators and standards no longer apply in relation to English best value authorities and police authorities in Wales. Section 139 also amends section 6 of the 1999 Act so that the requirement to produce a best value performance plan no longer applies in relation to certain English best value authorities. The requirement for police authorities in England and Wales to prepare best value performance plans was removed by section 4 of the Police and Justice Act 2006 (c.48).

The saving contained in article 7(3) preserves the existing legal framework relating to best value performance indicators and standards in respect of police authorities in England and Wales until 31st March 2010. The saving in article 7(1) preserves the requirement for best value authorities in England (other than police authorities) to produce and publish a very limited performance plan for the financial year 2007/8.

Copies of the ODPM Circulars referred to in article 7(2) may be obtained by contacting Geoff Salvatore at the Department for Communities and Local Government, Eland House, Bressenden Place, London, SW1E 5DU.

Section 140 repeals the requirement that best value authorities in England carry out best value reviews. The requirement for police authorities in England and Wales to carry out best value reviews was removed by section 4 of the Police and Justice Act 2006.

Section 144 makes amendments to the 1999 Act and other legislation consequential on the changes to best value set out in Part 7 of the Act.

This Order also brings into force Part 9 of the Act together with related consequential amendments and repeals in Schedules 4 and 18 to the Act. Part 9 amends provisions in Part 3 of the Local Government Act 1974 (c.7) which relates to the Commission for Local Administration in England, (commonly known as “the Local Government Ombudsman”).

The new provisions change the terms on which Local Commissioners are appointed, and the powers and procedures they follow. Article 7 of the Order makes transitional and savings provisions to preserve the existing framework in relation to Local Commissioners appointed before the commencement date, and in relation to complaints received before then.

Part 11 of the Act (joint waste authorities) is commenced save for section 210 which will be separately commenced, in respect of Wales, by the Welsh Ministers.

Section 205 allows two or more local authorities to submit a proposal to the Secretary of State for the creation of a joint waste authority to discharge some, or all, of their waste functions through that authority. It also provides that the Secretary of State may issue guidance and Regulations on proposals for joint waste authorities.

Section 206 requires local authorities to consult relevant electors and any interested person in their area on a draft of a proposal.

Section 207 allows the Secretary of State to implement proposals by order, with or without modifications. It also enables the Secretary of State to dissolve a joint waste authority where all the member authorities have requested or where the Secretary of State considers it necessary to do so.

Section 208 sets out the requirements for membership of joint waste authorities.

Section 209 amends the Waste and Emissions Trading Act 2003 (c.33) to make joint waste authorities in England that have a waste disposal function, waste disposal authorities for the purposes of the 2003 Act. It also gives effect to other consequential amendments specified in Schedule 13 to the Act.

Section 211 defines the terms “joint waste authority” and “local authority” used in Part 11.

This Order also commences Part 13 (the Valuation Tribunal for England) and Schedules 15 and 16 in part.

Section 219(1) (which introduces Schedule 15) and section 220(1) (which introduces Schedule 16) are commenced in so far as provisions in those Schedules are themselves commenced by this Order. Section 220(2) to (4) (which enables the Secretary of State to make regulations in consequence of, or for the purpose of giving full effect to, Part 13) is also commenced.

Before the jurisdiction of the valuation tribunals in England can be transferred to the Valuation Tribunal for England (“the VTE”) the President and any Vice-Presidents of the VTE must be appointed. The provisions in Schedules 15 and 16 which are commenced by this Order facilitate the appointment of those officers and the exercise by them of certain functions preparatory to the transfer of that jurisdiction. In particular, paragraphs 14 to 16 of Schedule 16 have been commenced in order to provide for the appointment of the President and Vice-Presidents of the VTE by the Lord Chancellor.

Article 7 of the Order contains transitory provisions relevant to Part 13. The Local Government Act 2003 (“the 2003 Act”) established the Valuation Tribunal Service (“the VTS”) and gave that body certain administrative functions in relation to the valuation tribunals in England. Once the jurisdiction of the valuation tribunals in England has been transferred to the VTE the VTS will exercise those functions in relation to the VTE. Until that occurs, article 7 modifies the 2003 Act to take account of the appointment of the President and Vice-Presidents of the VTE.

The Order also commences section 239 of the Act which amends the Deregulation and Contracting Out Act 1994 (c. 40) (“the 1994 Act”), primarily to extend the definition of “local authority” for the purposes of Part 2 of the 1994 Act. This will allow the Secretary of State to make orders permitting a wider range of bodies than was previously possible to contract out their functions. As a consequence of this change, section 239(5) amends section 18 of the Local Government Act 1999 (c. 27) (“the 1999 Act”), which applies Part 2 of the 1994 Act to certain additional bodies. The Transport for London (Best Value) (Contracting Out of Investment and Highway Functions) Order 2006 (S.I. 2006/91) was made under section 18 of the 1999 Act and article 7(4) of this Order provides for that instrument to continue notwithstanding the amendment of section 18.

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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 75	13.02.2008	2008/337
Sections 79 to 102	13.02.2008	2008/337
Section 149	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 to 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
Sections 223 and 224	21.02.2008	2008/461
Section 225	31.01.2008	2008/172
Section 226 (partially)	21.02.2008	2008/461
Section 227 (partially)	10.03.2008	2008/461
Section 228 (partially)	21.02.2008	2008/461
Section 229	31.01.2008	2008/172
Section 238	31.01.2008	2008/172
Section 241(partially)	01.11.2007	2007/3136
	31.01.2008	2008/172
	13.02.2008	2008/337
Section 243	21.02.2008	2008/461
Schedule 1	01.11.2007	2007/3136

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I.No.</i>
Schedule 5(partially)	13.02.2008	2008/337
Schedule 11	31.01.2008	2008/172
Schedule 18(partially)	01.11.2007	2007/3136
	13.02.2008	2008/337

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 116	01.04.2008	2008/461
Sections 146 to 148	31.03.2008	2008/172
Section 150	31.03.2008	2008/172
Section 152	31.03.2008	2008/172
Sections 156 and 157	31.03.2008	2008/172
Section 159 to 163	31.03.2008	2008/172
Section 165	31.03.2008	2008/172
Section 187	31.03.2008	2008/172
Section 191	01.04.2008	2008/172
Section 196	31.03.2008	2008/172
Sections 200 and 201	31.03.2008	2008/172
Section 202	01.04.2008	2008/172
Section 203	01.04.2008	2008/172
Sections 221 and 222	01.04.2008	2008/461
Sections 226 to 228	01.04.2008	2008/461
Sections 230 and 231	01.04.2008	2008/461
Section 232 (partially)	01.04.2008	2008/461
	30.06.2008	2008/461
Section 241(partially)	31.03.2008	2008/172
	01.04.2008	2008/461
	30.06.2008	2008/461
Schedule 9	31.03.2008	2008/172
Schedule 10	31.03.2008	2008/172
Schedule 18 (partially)	31.03.2008	2008/172
	01.04.2008	2008/461

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<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
	30.06.2008	2008/461