



Local Government Act 1999

1999 CHAPTER 27

PART I

BEST VALUE

Exercise of functions by best value authorities

16 Power [^{F1}of Secretary of State] to modify enactments and confer new powers.

- (1) If the Secretary of State thinks that an enactment prevents or obstructs compliance by best value authorities with the requirements of this Part he may by order make provision modifying or excluding the application of the enactment [^{F2}in relation to—
 - (a) all best value authorities,
 - (b) particular best value authorities, or
 - (c) particular descriptions of best value authority.]
- (2) The Secretary of State may by order make provision [^{F3}conferring on—
 - (a) all best value authorities,
 - (b) particular best value authorities, or
 - (c) particular descriptions of best value authority,]which he considers necessary or expedient to permit or facilitate compliance with the requirements of this Part.
- (3) An order under this section may—
 - (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
 - (b) amend an enactment;
 - (c) include consequential, incidental and transitional provision;
 - (d) make different provision for different cases.

[^{F4}(3A) The power under subsection (3)(d) includes, in particular, power to make different provision in relation to different authorities or descriptions of authority.]

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1999, Cross Heading: Exercise of functions by best value authorities. (See end of Document for details)

- [^{F5}(3B) In exercising a power under this section, the Secretary of State must not make provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.
- (3C) In exercising a power under this section, the Secretary of State—
- (a) must not make provision amending, or modifying or excluding the application of, Measures or Acts of the National Assembly for Wales without the consent of the National Assembly for Wales;
 - (b) must not make provision amending, or modifying or excluding the application of, subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.
- (3D) Subsection (3C) does not apply to the extent that the Secretary of State is making incidental or consequential provision.]
- (4) [^{F6}Subject to subsection (4A),] no order shall be made under this section unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- [^{F7}(4A) An order under this section which is made only for the purpose of amending an earlier order under this section—
- (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,
- shall be subject to annulment in pursuance of a resolution of either House of Parliament.]
- (5) In exercising a power conferred under subsection (2) a best value authority shall have regard to any guidance issued by the Secretary of State.
- [^{F8}(6) In this section—
- (a) “ enactment ” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978);
 - (b) references to a best value authority do not include a Welsh best value authority.]

Textual Amendments

- F1** Words in s. 16 inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 142(1)(a)**, 245(2)
- F2** Words in s. 16(1) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), **Sch. 3 para. 8(2)**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F3** Words in s. 16(2) substituted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), **Sch. 3 para. 8(3)**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F4** S. 16(3A) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), **Sch. 3 para. 8(4)**; S.I. 2003/2938, art. 3(a) (with art. 8Sch.) ; S.I. 2003/3034, art. 2, **Sch. 1 Pt. I**
- F5** S. 16(3B)-(3D) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 141(1)**, 245(2)

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- F6** Words in s. 16(4) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 3 para. 8\(5\)](#); S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F7** S. 16(4A) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 3 para. 8\(6\)](#); S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F8** S. 16(6) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 142\(1\)\(b\), 245\(2\)](#)

Commencement Information

- II** S. 16 wholly in force at 27.9.1999; s. 16 not in force at Royal Assent see s. 27 ; s. 16 in force at 27.9.1999 by [S.I. 1999/2169, art. 3\(1\)](#)

17 Orders under section 16: procedure.

- (1) Before the Secretary of State makes an order under section 16 he shall consult such authorities or persons as appear to him to be representative of interests affected by his proposals.
 - (2) If, following consultation under subsection (1), the Secretary of State proposes to make an order under section 16 he shall lay before each House of Parliament a document explaining his proposals and, in particular—
 - (a) setting them out in the form of a draft order, and
 - (b) giving details of consultation under subsection (1) above.
 - (3) Where a document relating to proposals is laid before Parliament under subsection (2), no draft of an order under section 16 to give effect to the proposals (with or without modification) shall be laid before Parliament until after the expiry of the period of sixty days beginning with the day on which the document was laid.
 - (4) In calculating the period mentioned in subsection (3) no account shall be taken of any time during which—
 - (a) Parliament is dissolved or prorogued, or
 - (b) either House is adjourned for more than four days.
 - (5) In preparing a draft order under section 16 the Secretary of State shall consider any representations made during the period mentioned in subsection (3) above.
 - (6) A draft order laid before Parliament in accordance with section 16(4) must be accompanied by a statement of the Secretary of State giving details of—
 - (a) any representations considered in accordance with subsection (5) above, and
 - (b) any changes made to the proposals contained in the document laid before Parliament under subsection (2) above.
- [^{F9}(7) Nothing in this section applies to an order under section 16 which is made only for the purpose mentioned in section 16(4A).]

Textual Amendments

- F9** S. 17(7) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\), s. 128\(6\), Sch. 3 para. 9](#); S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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[^{F10}17A Power of Welsh Ministers to modify enactments and confer new powers

- (1) If the Welsh Ministers think that an enactment prevents or obstructs compliance by Welsh best value authorities with the requirements of this Part they may by order make provision modifying or excluding the application of the enactment in relation to—
 - (a) all Welsh best value authorities,
 - (b) particular Welsh best value authorities, or
 - (c) particular descriptions of Welsh best value authority.
- (2) The Welsh Ministers may by order make provision conferring on—
 - (a) all Welsh best value authorities,
 - (b) particular Welsh best value authorities, or
 - (c) particular descriptions of Welsh best value authority,
 any power which they consider necessary or expedient to permit or facilitate compliance with the requirements of this Part.
- (3) An order under this section may—
 - (a) impose conditions on the exercise of any power conferred by the order (including conditions about consultation or approval);
 - (b) amend an enactment;
 - (c) include consequential, incidental and transitional provision;
 - (d) make different provision for different cases.
- (4) The power under subsection (3)(d) includes, in particular, power to make different provision in relation to different authorities or descriptions of authority.
- (5) An order under this section may not make a provision which, if it were a provision of a Measure of the National Assembly for Wales, would be outside the Assembly's legislative competence.
- (6) For the purposes of subsection (5), section 94(4) of the Government of Wales Act 2006 has effect as if paragraph (a) (matters within legislative competence) were omitted.
- (7) Subject to subsection (8), no order shall be made under this section unless a draft has been laid before, and approved by resolution of, the National Assembly for Wales.
- (8) An order under this section which is made only for the purpose of amending an earlier order under this section—
 - (a) so as to extend the earlier order, or any provision of the earlier order, to a particular authority or to authorities of a particular description, or
 - (b) so that the earlier order, or any provision of the earlier order, ceases to apply to a particular authority or to authorities of a particular description,
 shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (9) In exercising a power conferred under subsection (2) a Welsh best value authority shall have regard to any guidance issued by the Welsh Ministers.
- (10) In this section, “enactment” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978).

Status: Point in time view as at 01/04/2009.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act 1999, Cross Heading: Exercise of functions by best value authorities. (See end of Document for details)

Textual Amendments

F10 Ss. 17A, 17B inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 142\(2\), 245\(2\)](#) (with s. 142(3))

17B Orders under section 17A: procedure

- (1) Before the Welsh Ministers make an order under section 17A they shall consult such authorities or persons as appear to them to be representative of interests affected by their proposals.
- (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 17A they shall lay before the National Assembly for Wales a document explaining their proposals and, in particular—
 - (a) setting them out in the form of a draft order, and
 - (b) giving details of consultation under subsection (1).
- (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 17A to give effect to the proposals (with or without modification) shall be laid before the National Assembly for Wales until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (4) In calculating the period mentioned in subsection (3) no account shall be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.
- (5) In preparing a draft order under section 17A the Welsh Ministers shall consider any representations made during the period mentioned in subsection (3) above.
- (6) A draft order laid before the National Assembly for Wales in accordance with section 17A(7) shall be accompanied by a statement of the Welsh Ministers giving details of—
 - (a) any representations considered in accordance with subsection (5) above, and
 - (b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2) above.
- (7) Nothing in this section applies to an order under section 17A which is made only for the purpose mentioned in section 17A(8).]

Textual Amendments

F10 Ss. 17A, 17B inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 142\(2\), 245\(2\)](#) (with s. 142(3))

18 Contracting out.

- (1) Section 70 of the ^{M1}Deregulation and Contracting Out Act 1994 (contracting out functions of local authorities) shall apply in relation to functions of any [^{F11}relevant] best value authority (other than excluded functions within the meaning of section 71) as it applies in relation to certain functions of local authorities.

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- (2) An order under section 70 as applied by subsection (1) above may be made only—
- (a) by the Secretary of State, and
 - (b) if he considers the order necessary or expedient for the purpose of permitting or facilitating compliance with the requirements of this Part.

[^{F12}(3) In this section “relevant best value authority” means a best value authority which is not a local authority for the purposes of section 70 of the Deregulation and Contracting Out Act 1994.]

Textual Amendments

- F11** Word in s. 18(1) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 239\(5\)\(a\)](#), 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))
- F12** S. 18(3) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 239\(5\)\(b\)](#), 245(5); S.I. 2008/917, art. 2(1)(u) (with art. 6(6))

Commencement Information

- I2** S. 18 wholly in force at 27.7.2000; s. 18 not in force at Royal Assent see s. 27; s. 18 in force (E.W.) at 27.9.1999 by [S.I. 1999/2169](#), [art. 3\(1\)](#); s. 18 in force at 27.7.2000 in so far as not already in force see s. 27

Marginal Citations

- M1** 1994 c.40.

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