



# Local Government Act 2000

## 2000 CHAPTER 22

**E+W**

An Act to make provision with respect to the functions and procedures of local authorities and provision with respect to local authority elections; to make provision with respect to grants and housing benefit in respect of certain welfare services; to amend section 29 of the Children Act 1989; and for connected purposes. [28th July 2000]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I **E+W**

#### PROMOTION OF ECONOMIC, SOCIAL OR ENVIRONMENTAL WELL-BEING ETC

#### *Interpretation*

#### **1** Meaning of “local authority” in Part I. **E+W**

In this Part “local authority” means—

- (a) in relation to England—
  - (i) a county council,
  - (ii) a district council,
  - (iii) a London borough council,
  - (iv) the Common Council of the City of London in its capacity as a local authority,
  - (v) the Council of the Isles of Scilly,
- (b) in relation to Wales, a county council or a county borough council.

**Status:** Point in time view as at 01/03/2007. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Local Government Act 2000 is up to date with all changes known to be in force on or before 25 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Commencement Information

- II** S. 1 wholly in force at 9.4.2001; s. 1 not in force at Royal Assent see s. 108; s. 1 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), [arts. 1\(3\)](#), 2(a); s. 1 in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), [art. 2](#)

## *Promotion of well-being*

### 2 Promotion of well-being. **E+W**

- (1) Every local authority are to have power to do anything which they consider is likely to achieve any one or more of the following objects—
  - (a) the promotion or improvement of the economic well-being of their area,
  - (b) the promotion or improvement of the social well-being of their area, and
  - (c) the promotion or improvement of the environmental well-being of their area.
- (2) The power under subsection (1) may be exercised in relation to or for the benefit of—
  - (a) the whole or any part of a local authority’s area, or
  - (b) all or any persons resident or present in a local authority’s area.
- (3) In determining whether or how to exercise the power under subsection (1), a local authority must have regard to their strategy under section 4.
- (4) The power under subsection (1) includes power for a local authority to—
  - (a) incur expenditure,
  - (b) give financial assistance to any person,
  - (c) enter into arrangements or agreements with any person,
  - (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
  - (e) exercise on behalf of any person any functions of that person, and
  - (f) provide staff, goods, services or accommodation to any person.
- (5) The power under subsection (1) includes power for a local authority to do anything in relation to, or for the benefit of, any person or area situated outside their area if they consider that it is likely to achieve any one or more of the objects in that subsection.
- (6) Nothing in subsection (4) or (5) affects the generality of the power under subsection (1).

### Modifications etc. (not altering text)

- C1** S. 2 restricted (8.1.2003) by [2002 c. 41, s. 55](#) (with [s. 159](#)); [S.I. 2002/2811, art. 2, Sch.](#)  
 S. 2 restricted (8.1.2003) by [2002 c. 41, ss. 54, 162\(2\)](#), [Sch. 3](#) (with [s. 159](#)); [S.I. 2002/2811, art. 2, Sch.](#)

### Commencement Information

- I2** S. 2 wholly in force at 9.4.2001; s. 2 not in force at Royal Assent see s. 108; s. 2 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), [arts. 1\(3\)](#), 2(a); s. 2 in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), [art. 2](#)

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### 3 Limits on power to promote well-being. **E+W**

- (1) The power under section 2(1) does not enable a local authority to do anything which they are unable to do by virtue of any prohibition, restriction or limitation on their powers which is contained in any enactment (whenever passed or made).
- (2) The power under section 2(1) does not enable a local authority to raise money (whether by precepts, borrowing or otherwise).
- (3) The Secretary of State may by order make provision preventing local authorities from doing, by virtue of section 2(1), anything which is specified, or is of a description specified, in the order.

[<sup>F1</sup>(3A) The power under subsection (3) may be exercised in relation to—

- (a) all local authorities,
- (b) particular local authorities, or
- (c) particular descriptions of local authority.]

- (4) [<sup>F2</sup>Subject to subsection (4A),] before making an order under subsection (3), the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.

[<sup>F3</sup>(4A) Subsection (4) does not apply to 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.]

- (5) Before exercising the power under section 2(1), a local authority must have regard to any guidance for the time being issued by the Secretary of State about the exercise of that power.
- (6) Before issuing any guidance under subsection (5), the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.
- (7) In its application to Wales, this section has effect as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.
- (8) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M1</sup>Interpretation Act 1978).

#### Textual Amendments

- F1** S. 3(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. 12\(2\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F2** Words in s. 3(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. 12\(3\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F3** S. 3(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. 12\(4\)](#); S.I. 2003/2938, art. 3(a) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

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**Modifications etc. (not altering text)**

**C2** S. 3(2) excluded (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), **ss. 93**, 128(2)(d)

**Commencement Information**

**I3** S. 3 wholly in force at 9.4.2001; s. 3 not in force at Royal Assent see s. 108; s. 3 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), **arts. 1(3)**, 2(a); s. 3(3)-(7) in force (W.) at 1.11.2000 by [S.I. 2000/2948](#), **art. 2**; s. 3(1)(2)(8) in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), **art. 2**

**Marginal Citations**

**M1** 1978 c. 30.

**4 Strategies for promoting well-being. E+W**

- (1) Every local authority must prepare a strategy (referred to in this section as a community strategy) for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the United Kingdom.
- (2) A local authority may from time to time modify their community strategy.
- (3) In preparing or modifying their community strategy, a local authority—
  - (a) must consult and seek the participation of such persons as they consider appropriate, and
  - (b) must have regard to any guidance for the time being issued by the Secretary of State.
- (4) Before issuing any guidance under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.
- (5) In its application to Wales, this section has effect as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

**Modifications etc. (not altering text)**

**C3** S. 4: functions of local authority not to be sole responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), **reg. 4(1)**, **Sch. 3**

**Commencement Information**

**I4** S. 4 wholly in force at 9.4.2001; s. 4 not in force at Royal Assent see s. 108; s. 4 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), **arts. 1(3)**, 2(a); s. 4(3)(b)(4)(5) in force (W.) at 1.11.2000 by [S.I. 2000/2948](#), **art. 2**; s. 4(1)(2)(3)(a) in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), **art. 2**

**5 Power to amend or repeal enactments. E+W**

- (1) If the Secretary of State thinks that an enactment (whenever passed or made) prevents or obstructs local authorities from exercising their power under section 2(1) he may by order amend, repeal, revoke or disapply that enactment.
- (2) The power under subsection (1) may be exercised in relation to—
  - (a) all local authorities,

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- (b) particular local authorities, or
  - (c) particular descriptions of local authority.
- (3) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.
- (4) In exercising the power under subsection (1), the Secretary of State—
- (a) must not make any provision which has effect in relation to Wales unless he has consulted the National Assembly for Wales, and
  - (b) must not make any provision in relation to legislation made by the National Assembly for Wales without the consent of the Assembly.
- (5) The National Assembly for Wales may submit proposals to the Secretary of State that the power under subsection (1) should be exercised in relation to Wales in accordance with those proposals.
- (6) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M2</sup>Interpretation Act 1978).

#### Commencement Information

**I5** S. 5 wholly in force at 9.4.2001; s. 5 not in force at Royal Assent see s. 108(4); s. 5 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), [arts. 1\(3\), 2\(a\)](#); s. 5(5) in force (W.) at 1.11.2000 by [S.I. 2000/2948](#), [art. 2](#); s. 5(1)-(4)(6) in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), [art. 2](#)

#### Marginal Citations

**M2** 1978 c. 30.

### *Modification of certain enactments*

## 6 Power to modify enactments concerning plans etc. **E+W**

- (1) Subject to subsection (3), the Secretary of State may by order amend, repeal, revoke or disapply any enactment (whenever passed or made) which requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter.
- (2) The power under subsection (1) may be exercised in relation to—
- (a) all local authorities,
  - (b) particular local authorities, or
  - (c) particular descriptions of local authority.
- (3) The power under subsection (1) may be exercised in relation to a local authority only if the Secretary of State considers—
- (a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or
  - (b) that any such enactment should be amended so that it operates more effectively in relation to the authority.
- (4) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.
- (5) In exercising the power under subsection (1), the Secretary of State—

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- (a) must not make any provision which has effect in relation to Wales unless he has consulted the National Assembly for Wales, and
- (b) must not make any provision—
  - (i) in relation to legislation made by the National Assembly for Wales, or
  - (ii) which has effect both in relation to Wales and in relation to any enactment to which section 7(2) applies,
 without the consent of the Assembly.
- (6) The National Assembly for Wales may submit proposals to the Secretary of State that the power under subsection (1) should be exercised in relation to Wales in accordance with those proposals.
- (7) An order under this section which would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.
- (8) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

#### Commencement Information

**I6** S. 6 wholly in force at 9.4.2001; s. 6 not in force at Royal Assent see s. 108(4); s. 6 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), [arts. 1\(3\), 2\(a\)](#); s. 6(6) in force (W.) at 1.11.2000 by [S.I. 2000/2948](#), [art. 2](#); s. 6(1)-(5)(7)(8) in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), [art. 2](#)

#### 7 Power to modify enactments concerning plans etc: Wales. **E+W**

- (1) Subject to subsections (4) and (6), the National Assembly for Wales may by order amend, repeal, revoke or disapply any enactment to which subsection (2) applies so far as that enactment has effect in relation to a local authority in Wales.
- (2) This subsection applies to—
  - <sup>F4</sup>(a) .....
  - (b) section 2 of the <sup>M3</sup>Home Energy Conservation Act 1995,
  - (c) section 84(2)(b) of the <sup>M4</sup>Environment Act 1995,
  - (d) any other enactment (whenever passed or made) which—
    - (i) requires a local authority to prepare, produce or publish any plan or strategy relating to any particular matter, and
    - (ii) is specified in an order made by the Secretary of State under this subsection.
- (3) The power under subsection (1) may be exercised in relation to—
  - (a) all local authorities in Wales,
  - (b) particular local authorities in Wales, or
  - (c) particular descriptions of local authority in Wales.
- (4) The power under subsection (1) may be exercised in relation to a local authority only if the National Assembly for Wales considers—
  - (a) that it is not appropriate for any such enactment as is mentioned in that subsection to apply to the authority, or

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- (b) that any such enactment should be amended so that it operates more effectively in relation to the authority.
- (5) The power under subsection (1) to amend or disapply an enactment includes a power to amend or disapply an enactment for a particular period.
- (6) An order under subsection (2)(d)(ii) which specifies any enactment may provide that the power under subsection (1) may be exercised in relation to that enactment only if the National Assembly for Wales complies with any conditions specified in the order.
- (7) In this section “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the <sup>M5</sup>Interpretation Act 1978).

#### Textual Amendments

**F4** S. 7(2)(a) repealed (25.6.2004) by [Waste and Emissions Trading Act 2003 \(c. 33\)](#), **ss. 35(c)**, 40(4); S.I. 2004/1488, art. 2(1)

#### Commencement Information

**I7** S. 7 wholly in force at 1.11.2000; s. 7 not in force at Royal Assent see s. 108(4); s. 7 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), **arts. 1(3)**, 2(a); s. 7 in force (W.) at 1.11.2000 by [S.I. 2000/2948](#), **art. 2**

#### Marginal Citations

**M3** 1995 c. 10.

**M4** 1995 c. 25.

**M5** 1978 c. 30.

## 8 Modification of section 137 of the 1972 Act. **E+W**

In section 137 of the <sup>M6</sup>Local Government Act 1972 (power of local authorities to incur expenditure for certain purposes not otherwise authorised), for subsection (9) there is substituted—

“(9) Subject to subsection (10) below, in this section “local authority” means a parish or community council.

(10) In subsection (3) above “local authority” means—

- (a) in relation to England, a county council, a district council, a London borough council, the Common Council or a parish council,
- (b) in relation to Wales, a county council, a county borough council or a community council.”

#### Commencement Information

**I8** S. 8 wholly in force at 9.4.2001; s. 8 not in force at Royal Assent see s. 108(4); s. 8 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), **arts. 1(3)**, 2(a); s. 8 in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), **art. 2**

#### Marginal Citations

**M6** 1972 c. 70.

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### *Procedure for orders under section 5 or 6*

## 9 Procedure for orders under section 5 or 6. E+W

- (1) Before the Secretary of State makes an order under section 5 or 6 he must consult—
  - (a) such local authorities,
  - (b) such representatives of local government, and
  - (c) such other persons (if any),
 as appear to him to be likely to be affected by his proposals.
- (2) Where those proposals affect any local authorities in Wales, the Secretary of State must also consult the National Assembly for Wales.
- (3) If, following consultation under the preceding provisions of this section, the Secretary of State proposes to make an order under section 5 or 6 he must lay before each House of Parliament a document which—
  - (a) explains his proposals,
  - (b) sets them out in the form of a draft order,
  - (c) gives details of consultation under subsection (1), and
  - (d) where consultation has taken place under subsection (2), sets out the views of the National Assembly for Wales.
- (4) Where a document relating to proposals is laid before Parliament under subsection (3), no draft of an order under section 5 or 6 to give effect to the proposals (with or without modifications) is to be laid before Parliament in accordance with section 105(6) until after the expiry of the period of sixty days beginning with the day on which the document was laid.
- (5) In calculating the period mentioned in subsection (4) no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued, or
  - (b) either House is adjourned for more than four days.
- (6) In preparing a draft order under section 5 or 6 the Secretary of State must consider any representations made during the period mentioned in subsection (4).
- (7) A draft order under section 5 or 6 which is laid before Parliament in accordance with section 105(6) must be accompanied by a statement of the Secretary of State giving details of—
  - (a) any representations considered in accordance with subsection (6), and
  - (b) any changes made to the proposals contained in the document laid before Parliament under subsection (3).
- [<sup>F5</sup>(8) Nothing in this section applies to an order under section 5 or 6 which is made only for the purpose of amending an earlier order under that 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.]



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### Textual Amendments

- F5** S. 9(8) inserted (18.11.2003 for E., 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 3 para. 13](#); [S.I. 2003/2938](#), art. 3(a) (with [art. 8Sch.](#)); [S.I. 2003/3034](#), art. 2, Sch. 1 Pt. I

### Commencement Information

- I9** S. 9 wholly in force at 9.4.2001; s. 9 not in force at Royal Assent see s. 108(4); s. 9 in force (E.) at 18.10.2000 by [S.I. 2000/2836](#), [arts. 1\(3\)](#), 2(a); s. 9 in force (W.) at 9.4.2001 by [S.I. 2001/1471](#), [art. 2](#)

## PART II **E+W**

### ARRANGEMENTS WITH RESPECT TO EXECUTIVES ETC.

#### Modifications etc. (not altering text)

- C4** Pt. II (ss. 10-48) restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(a\)](#)
- C5** Pt. II extended (1.9.2003 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 183\(4\)\(b\)](#), 216(4) (with [ss. 210\(8\)](#), 214(4)); [S.I. 2003/1667](#), art. 4; [S.I. 2003/1718](#), art. 5, Sch. Pt. II
- C6** Pt. II modified (21.6.2004) by [Isles of Scilly \(Functions\) \(Review and Scrutiny of Health Services\) Order 2004 \(S.I. 2004/1412\)](#), arts. 1, 2

#### *Executive arrangements*

### 10 **Executive arrangements.** **E+W**

- (1) In this Part “executive arrangements” means arrangements by a local authority—
- for and in connection with the creation and operation of an executive of the authority, and
  - under which certain functions of the authority are the responsibility of the executive.
- (2) Executive arrangements by a local authority must conform with any provisions made by or under this Part which relate to such arrangements.

#### Commencement Information

- I10** S. 10 wholly in force at 28.7.2001; s. 10 not in force at Royal Assent see s. 108; s. 10 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\)](#), 2(a); s. 10 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *Local authority executives*

### 11 **Local authority executives.** **E+W**

- (1) The executive of a local authority must take one of the forms specified in subsections (2) to (5).
- (2) It may consist of—

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- (a) an elected mayor of the authority, and
- (b) two or more councillors of the authority appointed to the executive by the elected mayor.

Such an executive is referred to in this Part as a mayor and cabinet executive.

- (3) It may consist of—
- (a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and
  - (b) two or more councillors of the authority appointed to the executive by one of the following—
    - (i) the executive leader, or
    - (ii) the authority.

Such an executive is referred to in this Part as a leader and cabinet executive.

- (4) It may consist of—
- (a) an elected mayor of the authority, and
  - (b) an officer of the authority (referred to in this Part as the council manager) appointed to the executive by the authority.

Such an executive is referred to in this Part as a mayor and council manager executive.

- (5) It may take any such form as may be prescribed in regulations made by the Secretary of State.
- (6) Regulations under subsection (5) may, in particular, provide for—
- (a) a form of executive some or all of the members of which are elected by the local government electors for the authority's area to a specified post in the executive associated with the discharge of particular functions,
  - (b) a form of executive some or all of the members of which are elected by those electors but not to any such post,
  - (c) the system of voting that will be used for elections under paragraph (a) or (b).
- (7) A local authority executive may not include the chairman or vice-chairman of the authority.
- (8) The number of members of a mayor and cabinet executive or a leader and cabinet executive may not exceed 10.
- (9) The Secretary of State may by regulations amend subsection (8) so as to provide for a different maximum number of members of an executive to which that subsection applies, but the power under this subsection may not be exercised so as to provide for a maximum number which exceeds 10.
- (10) Section 101 of the <sup>M7</sup>Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under subsection (3)(a) or appointing councillors or an officer to the executive under subsection (3)(b)(ii) or (4)(b).

#### **Commencement Information**

**III** S. 11 wholly in force at 28.7.2001; s. 11 not in force at Royal Assent see s. 108; s. 11 in force at 7.8.2000 in so far as it confers power to make an order or regulations, gives directions, or issue

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guidance in relation to England only by S.I. 2000/2187, arts. 1(3), 2(b); s. 11 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, arts. 1(3), 2(b); s. 11(5)(6)(9) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 11 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

M7 1972 c. 70.

## 12 Additional forms of executive. E+W

- (1) In deciding whether to make regulations under section 11(5) prescribing a particular form of executive, or which provision to make under section 17 in relation to that form of executive, the Secretary of State must have regard to—
  - (a) any proposals made to him under subsection (2),
  - (b) the extent to which he considers that the operation by a local authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way,
  - (c) the extent to which that form of executive differs from the forms of executive for the time being permitted by or under section 11,
  - (d) the number and description of authorities for which he considers that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive to consider.
- (2) For the purposes of subsection (1), a local authority may propose to the Secretary of State a form of executive in relation to which the authority consider that the conditions mentioned in subsection (3) are satisfied.
- (3) Those conditions are—
  - (a) that the operation by the authority of executive arrangements involving that form of executive would be an improvement on the arrangements which the authority have in place for the discharge of their functions at the time that the proposal is made to the Secretary of State,
  - (b) that the operation by the authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way, and
  - (c) that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive for all local authorities, or for any particular description of local authority, to consider.
- (4) A proposal under subsection (2)—
  - (a) must describe the form of executive to which it relates,
  - (b) must describe the provision which the authority consider should be made under section 17 in relation to that form of executive, and
  - (c) must explain why the authority consider that the conditions mentioned in subsection (3) are satisfied in relation to that form of executive.

#### Commencement Information

**I12** S. 12 wholly in force at 28.7.2001; s. 12 not in force at Royal Assent see s. 108; s. 12 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, arts. 1(3), 2(a); s. 12(1) in force at 1.11.2000

**Status:** Point in time view as at 01/03/2007. This version of this Act contains provisions that are not valid for this point in time.

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in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 12 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Executive functions*

## 13 **Functions which are the responsibility of an executive.** E+W

- (1) This section has effect for the purposes of determining the functions of a local authority which are the responsibility of an executive of the authority under executive arrangements.
- (2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of a local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.
- (3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—
  - (a) to be a function which is not to be the responsibility of an executive of the authority under executive arrangements,
  - (b) to be a function which may be the responsibility of such an executive under such arrangements, or
  - (c) to be a function which—
    - (i) to the extent provided by the regulations is to be the responsibility of such an executive under such arrangements, and
    - (ii) to the extent provided by the regulations is not to be the responsibility of such an executive under such arrangements.
- (4) Executive arrangements must make provision for any function of a local authority falling within subsection (3)(b)—
  - (a) to be a function which is to be the responsibility of an executive of the authority,
  - (b) to be a function which is not to be the responsibility of such an executive, or
  - (c) to be a function which—
    - (i) to the extent provided by the arrangements is to be the responsibility of such an executive, and
    - (ii) to the extent provided by the arrangements is not to be the responsibility of such an executive.
- (5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a local authority—
  - (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of a local authority, and
  - (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.
- (6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.

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- (7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the <sup>M8</sup>Local Government Act 1972, or any provision of that section, does not apply to that function.
- (8) Any reference in the following provisions of this Part to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of this section, the responsibility of the executive under such arrangements.
- (9) Any function which is the responsibility of an executive of a local authority under executive arrangements—
- (a) is to be regarded as exercisable by the executive on behalf of the authority, and
  - (b) may be discharged only in accordance with any provisions made by or under this Part which apply to the discharge of any such function by that form of executive.
- (10) Accordingly any function which is the responsibility of an executive of a local authority under executive arrangements—
- (a) may not be discharged by the authority,
  - (b) is not to be a function to which section 101(1) of the <sup>M9</sup>Local Government Act 1972 applies, and
  - (c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 20.
- (11) Subject to any provision made under subsection (12), any function which, under executive arrangements, is not the responsibility of an executive of a local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Part.
- (12) The Secretary of State may by regulations make provision with respect to the discharge of any function which, under executive arrangements, is not the responsibility of an executive of a local authority (including provision disapplying section 101 of the <sup>M10</sup>Local Government Act 1972 or any provision of that section).
- (13) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.
- (14) In this section—
- “action” in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—
  - (a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,
  - (b) the doing of anything incidental or conducive to the discharge of the function, or
  - (c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b),
- “function” means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

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### Commencement Information

**I13** S. 13 wholly in force at 28.7.2001; s. 13 not in force at Royal assent see s. 108; s. 13 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, arts. 1(3), 2(b); s. 13 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, arts. 1(3), 2(b); s. 13(3)(5)(6)(12)-(14) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 13 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### Marginal Citations

**M8** 1972 c. 70.  
**M9** 1972 c. 70.  
**M10** 1972 c. 70.

## *Provisions with respect to executive arrangements*

### 14 Discharge of functions: mayor and cabinet executive. E+W

- (1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of a mayor and cabinet executive are to be discharged in accordance with this section.
- (2) The elected mayor—
  - (a) may discharge any of those functions, or
  - (b) may arrange for the discharge of any of those functions—
    - (i) by the executive,
    - (ii) by another member of the executive,
    - (iii) by a committee of the executive, or
    - (iv) by an officer of the authority.
- (3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the elected mayor otherwise directs, the executive may arrange for the discharge of any of those functions—
  - (a) by a committee of the executive, or
  - (b) by an officer of the authority.
- (4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the elected mayor otherwise directs, that member may arrange for the discharge of any of those functions by an officer of the authority.
- (5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the elected mayor otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (6) Any arrangements made by virtue of this section by an elected mayor, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the elected mayor, executive, member or committee by whom the arrangements are made from exercising those functions.

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#### Modifications etc. (not altering text)

**C7** Ss. 14-18 restricted (W.) (1.4.2002) by S.I. 2002/808, **art. 23(b)**

#### Commencement Information

**I14** S. 14 wholly in force at 28.7.2001; s. 14 not in force at Royal Assent see s. 108; s. 14 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3), 2(a)**; s. 14 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 15 Discharge of functions: leader and cabinet executive. **E+W**

- (1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of a leader and cabinet executive are to be discharged in accordance with this section.
- (2) The executive arrangements may make provision with respect to the allocation of any functions which are the responsibility of the executive among the following persons—
  - (a) the executive,
  - (b) any members of the executive,
  - (c) any committees of the executive, and
  - (d) any officers of the authority.
- (3) If the executive arrangements make such provision as is mentioned in subsection (2), any person to whom a function is allocated in accordance with that provision may discharge the function.
- (4) If or to the extent that the functions which are the responsibility of the executive are not allocated in accordance with such provision as is mentioned in subsection (2), the executive leader—
  - (a) may discharge any of those functions, or
  - (b) may arrange for the discharge of any of those functions—
    - (i) by the executive,
    - (ii) by another member of the executive,
    - (iii) by a committee of the executive, or
    - (iv) by an officer of the authority.
- (5) Where by virtue of this section any functions may be discharged by a local authority executive, the executive may arrange for the discharge of any of those functions—
  - (a) by a committee of the executive, or
  - (b) by an officer of the authority.
- (6) Where by virtue of this section any functions may be discharged by a member of a local authority executive, that member may arrange for the discharge of any of those functions by an officer of the authority.
- (7) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (8) Where the executive leader makes or has made any arrangements under subsection (4) (b)(i), (ii) or (iii), he may direct that subsection (5), (6) or (7) (as the case may be) is

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not to apply to any of the functions which are the subject of those arrangements or is not to apply to any of those functions in such cases or circumstances as he may direct.

- (9) Any arrangements made by virtue of this section by an executive leader, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the executive leader, executive, member or committee by whom the arrangements are made from exercising those functions.
- (10) The reference in subsection (2)(b) to the members of the executive includes a reference to the executive leader, and subsection (6) in its application for the purposes of subsection (2)(b) is to be construed accordingly.

#### Modifications etc. (not altering text)

- C8** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)
- C9** S. 15(8) extended (16.11.2000 with application to local authorities in England only) by [S.I. 2000/2851](#), [regs. 1\(2\), 4\(2\)](#)

#### Commencement Information

- I15** S. 15 wholly in force at 28.7.2001; s. 15 not in force at Royal Assent see s. 108; s. 15 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 15 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 16 Discharge of functions: mayor and council manager executive. E+W

- (1) Subject to any provision made under section 18, 19 or 20, the functions which, under executive arrangements, are the responsibility of a mayor and council manager executive are to be discharged in accordance with this section.
- (2) The council manager—
- (a) may discharge any of those functions, or
  - (b) may arrange for the discharge of any of those functions—
    - (i) by the executive, or
    - (ii) by an officer of the authority.
- (3) In deciding—
- (a) whether or how to discharge any functions, or
  - (b) whether to arrange for any functions to be discharged by the executive or an officer of the authority,
- the council manager must have regard to any advice given by the elected mayor.
- (4) Where by virtue of this section any functions may be discharged by the executive of a local authority, the executive may arrange for the discharge of any of those functions by an officer of the authority.
- (5) Any arrangements made by virtue of this section by a council manager or executive for the discharge of any functions by an executive or officer are not to prevent the council manager or executive by whom the arrangements are made from exercising those functions.



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**Modifications etc. (not altering text)**

**C10** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I16** S. 16 wholly in force at 28.7.2001; s. 16 not in force at Royal Assent see s. 108; s. 16 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 16 in force at 28.7.2001 in so far as not already in force see. 108(4)-(6)

**17 Discharge of functions: s. 11(5) executive. E+W**

- (1) The Secretary of State may by regulations make provision with respect to the ways in which any functions which, under executive arrangements, are the responsibility of an executive which takes a form prescribed in regulations under section 11(5) are to be discharged.
- (2) The provision which may be made by regulations under this section includes provision which applies or reproduces (with or without modifications) any provisions of section 14, 15 or 16.
- (3) Nothing in subsection (2) affects the generality of the power under subsection (1).
- (4) Any provision made by regulations under this section is subject to any provision made under section 18, 19 or 20.

**Modifications etc. (not altering text)**

**C11** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I17** S. 17 wholly in force at 1.11.2000; s. 17 not in force at Royal Assent see s. 108; s. 17 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 17 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

**18 Discharge of functions by area committees. E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive by an area committee of that authority.
- (2) Regulations under this section may impose limitations or restrictions on the arrangements which may be made by virtue of the regulations (including limitations or restrictions on the functions which may be the subject of such arrangements).
- (3) In this section—  
“area committee”, in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (4),  
“specified” means specified in regulations under this section.

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- (4) A committee or sub-committee of a local authority satisfies the conditions in this subsection if—
- (a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,
  - (b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part, and
  - (c) either or both of the conditions in subsection (5) are satisfied in relation to that part.
- (5) Those conditions are—
- (a) that the area of that part does not exceed two-fifths of the total area of the authority,
  - (b) that the population of that part, as estimated by the authority, does not exceed two-fifths of the total population of the area of the authority as so estimated.

**Modifications etc. (not altering text)**

**C12** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I18** S. 18 wholly in force at 1.11.2000; s. 18 not in force at Royal Assent see s. 108; s. 18 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 18 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

**19 Discharge of functions of and by another local authority. E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority (within the meaning of this Part), or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—
- (a) by another local authority (within the meaning of section 101 of the <sup>M11</sup>Local Government Act 1972), or
  - (b) by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.
- (2) The Secretary of State may by regulations make provision for or in connection with enabling a local authority (within the meaning of section 101 of that Act) to arrange for the discharge of any of their functions by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.
- (3) The reference in subsection (2) to the functions of a local authority, in a case where the authority are operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority's executive.
- (4) Regulations under subsection (1) or (2) may include provision—
- (a) requiring, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, the approval of the authority to such arrangements,

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- (b) which, in the case of arrangements for the discharge of any functions by a local authority, enables any of those functions to be delegated,
  - (c) which, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, enables any of those functions to be delegated.
- (5) The provision which may be made under subsection (4)(b) includes provision which applies or reproduces (with or without modifications) any provisions of section 101(2) to (4) of the<sup>M12</sup>Local Government Act 1972.
- (6) The provision which may be made under subsection (4)(c) includes provision which applies or reproduces (with or without modifications) any provisions of section 14(3) to (6), 15(5) to (9) or 16(3) to (5).
- (7) Nothing in subsection (4), (5) or (6) affects the generality of the power under subsection (1) or (2).
- (8) In this section “specified” means specified in regulations under this section.

#### Commencement Information

**I19** S. 19 wholly in force at 1.11.2000; s. 19 not in force at Royal Assent see s. 108; s. 19 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, **arts. 1(3), 2(a)**; s. 19 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**

#### Marginal Citations

**M11** 1972 c. 70.

**M12** 1972 c. 70.

## 20 Joint exercise of functions. **E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the<sup>M13</sup>Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority under executive arrangements.
- (2) The provision which may be made under subsection (1) includes provision—
- (a) as to the circumstances in which the executive, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,
  - (b) as to the circumstances in which—
    - (i) the authority, and
    - (ii) the executive or a committee or specified member of the executive,are both to be parties to the arrangements,
  - (c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the<sup>M14</sup>Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,
  - (d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,

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- (e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,
  - (f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.
- (3) Nothing in subsection (2) affects the generality of the power under subsection (1).
- (4) In this section “specified” means specified in regulations under this section.

#### Commencement Information

**I20** S. 20 wholly in force at 1.11.2000; s. 20 not in force at Royal Assent see s. 108; s. 20 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 20 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### Marginal Citations

**M13** 1972 c. 70.  
**M14** 1972 c. 70.

## 21 Overview and scrutiny committees. **E+W**

- (1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Part as overview and scrutiny committees).
- (2) Executive arrangements by a local authority must ensure that their overview and scrutiny committee has power (or their overview and scrutiny committees have power between them)—
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
  - (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
  - (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
  - (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
  - (e) to make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area,
  - <sup>F6</sup>(f) in the case of the overview and scrutiny committee or committees of an authority to which <sup>F7</sup>section 244 of the National Health Service Act 2006 or section 184 of the National Health Service (Wales) Act 2006 applies, to review and scrutinise, in accordance with regulations under either of those sections, matters relating to the health service (within the meaning given by the Act concerned, and as extended by the section concerned) ] in the authority’s area,

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and to make reports and recommendations on such matters in accordance with the regulations.]

- (3) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—
  - (a) to recommend that the decision be reconsidered by the person who made it, or
  - (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.
- (4) Subject to subsection (5), an overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this section.
- (5) If or to the extent that a local authority's function of conducting best value reviews under section 5 of the <sup>M15</sup>Local Government Act 1999 is not the responsibility of an executive of the authority, the authority may arrange for their overview and scrutiny committee (or any of their overview and scrutiny committees) to conduct such a review.
- (6) An overview and scrutiny committee of a local authority—
  - (a) may appoint one or more sub-committees, and
  - (b) may arrange for the discharge of any of its functions by any such sub-committee.
- (7) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (6)(b).
- (8) Executive arrangements by a local authority must include provision which enables—
  - (a) any member of an overview and scrutiny committee of the authority to ensure that any matter which is relevant to the functions of the committee is included in the agenda for, and is discussed at, a meeting of the committee, and
  - (b) any member of a sub-committee of such a committee to ensure that any matter which is relevant to the functions of the sub-committee is included in the agenda for, and is discussed at, a meeting of the sub-committee.
- (9) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.
- (10) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority, but (subject to any provision made by or under paragraphs 7 to 9 of Schedule 1) any such persons are not entitled to vote at any meeting of such a committee or sub-committee on any question which falls to be decided at that meeting [<sup>F8</sup>, unless permitted to do so under paragraph 12 of that Schedule].
- (11) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—
  - (a) as a committee or sub-committee of a principal council for the purposes of Part VA of the <sup>M16</sup>Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and
  - (b) as a body to which section 15 of the <sup>M17</sup>Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- (12) Subsections (2) and (5) of section 102 of the <sup>M18</sup>Local Government Act 1972 are to apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

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- (13) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—
- (a) may require members of the executive, and officers of the authority, to attend before it to answer questions, and
  - (b) may invite other persons to attend meetings of the committee.
- (14) It is the duty of any member or officer mentioned in subsection (13)(a) to comply with any requirement so mentioned.
- (15) A person is not obliged by subsection (14) to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

#### Textual Amendments

- F6** S. 21(2)(f) inserted (1.1.2003 for E., otherwise 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), [ss. 7\(1\), 70\(2\)](#) (with [s. 7\(2\)-\(5\), 64\(9\), 65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), [Sch. 1 Pt. II para. 8\(a\)](#)
- F7** Words in s. 21(2)(f) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 1 para. 205](#) (with [Sch. 3 Pt. 1](#))
- F8** Words in s. 21(10) inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(3\)\(e\)](#), [Sch. 7 para. 80](#); [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8Sch.](#))

#### Modifications etc. (not altering text)

- C13** S. 21 applied (with modifications) (1.1.2003 for E. otherwise 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), [s. 10\(3\)\(4\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), [Sch. 1 Pt. II para. 8\(a\)](#) (and the said amending [Health and Social Care Act 2001 \(c. 15\)](#), [s. 10](#) is repealed (1.3.2007) by the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 4](#))
- C14** S. 21 applied (with modifications) (1.3.2007) by [National Health Service Act 2006 \(c. 41\)](#), [s. 247\(3\)\(4\), 277\(1\)](#)
- C15** S. 21(4) excluded (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), [ss. 8\(7\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), [Sch. 1 Pt. II para. 8\(a\)](#) (and the said amending [Health and Social Care Act 2001 \(c. 15\)](#), [s. 8](#) is repealed (1.3.2007) by the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 4](#))
- C16** S. 21(4) power to apply (with modifications) conferred (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), [ss. 8\(3\)\(b\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), [Sch. 1 Pt. II para. 8\(a\)](#) (and the said amending [Health and Social Care Act 2001 \(c. 15\)](#), [s. 8](#) is repealed (1.3.2007) by the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 4](#))
- C17** S. 21(4) excluded (1.3.2007) by [National Health Service Act 2006 \(c. 41\)](#), [ss. 245\(7\), 277\(1\)](#)
- C18** S. 21(4) excluded (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), [ss. 185\(7\), 208\(1\)](#) (with [s. 19\(3\)](#))
- C19** S. 21(6)-(15) applied (with modifications) (E.) (1.1.2003) by [S.I. 2002/3048](#), [reg. 7\(3\)](#)
- C20** S. 21(6)-(15) power to apply (with modifications) conferred (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), [ss. 8\(3\)\(b\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), [Sch. 1 Pt. II para. 8\(a\)](#) (and

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the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

**C21** S. 21(10) excluded (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), [ss. 8\(8\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53, art. 3\(a\)](#); [S.I. 2006/1407, Sch. 1 Pt. II para. 8\(a\)](#) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)

**C22** S. 21(10) excluded (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), [ss. 185\(8\), 208\(1\)](#) (with [s. 19\(3\)](#))

**C23** S. 21(10) excluded (1.3.2007) by [National Health Service Act 2006 \(c. 41\)](#), [ss. 245\(8\), 277\(1\)](#)

#### Commencement Information

**I21** S. 21 wholly in force at 28.7.2001; s. 21 not in force at Royal Assent see s. 108; s. 21 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 21 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M15** 1999 c. 27.

**M16** 1972 c. 70.

**M17** 1989 c. 42.

**M18** 1972 c. 70.

## 22 Access to information etc. **E+W**

- (1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.
- (2) Subject to regulations under subsection (9), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.
- (3) A written record must be kept of prescribed decisions made at meetings of local authorities executives, or committees of such executives, which are held in private.
- (4) A written record must be kept of prescribed decisions made by individual members of local authority executives.
- (5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.
- (6) Written records under subsections (3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Secretary of State.
- (7) Regulations under subsection (6) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.
- (8) The Secretary of State may by regulations make provision—
  - (a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection

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- with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),
- (b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,
  - (c) for or in connection with requiring written records falling within paragraph (b) to include reasons,
  - (d) for or in connection with requiring any such written records to be made available to members of the public,
  - (e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.
- (9) The Secretary of State may by regulations make provision—
- (a) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be open to the public,
  - (b) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be held in private,
  - (c) with respect to the information which is to be included in written records kept by virtue of this section,
  - (d) with respect to the reasons which are to be included in any such written records,
  - (e) with respect to the persons who are to produce, keep or make available any such written records,
  - (f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,
  - (g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,
  - (h) for or in connection with requiring information to be made available by electronic means,
  - (i) for or in connection with conferring rights on members of the public, members of local authorities or overview and scrutiny committees or sub-committees in relation to records or documents,
  - (j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section.
- (10) The Secretary of State may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority.
- (11) The provision which may be made under subsection (10) includes provision—
- (a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,
  - (b) as to the way or form in which prescribed information is to be made available.
- (12) The Secretary of State may by regulations make provision which, in relation to meetings of—
- (a) local authority executives or committees of such executives, or



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(b) joint committees, or sub-committees of such committees, falling within subsection (8)(a),

applies or reproduces (with or without modifications) any provisions of Part VA of the <sup>M19</sup>Local Government Act 1972.

(13) In this section—

“joint committee” means a joint committee falling within section 101(5)(a) of the <sup>M20</sup>Local Government Act 1972,

“prescribed” means prescribed by regulations made by the Secretary of State.

#### Commencement Information

**I22** S. 22 wholly in force at 28.7.2001; s. 22 not in force at Royal Assent see s. 108; s. 22 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 22 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 22(6)-(13) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 22 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M19** 1972 c. 70.  
**M20** 1972 c. 70.

### 23 Further provision. **E+W**

Schedule 1 (which makes further provision in relation to executive arrangements) has effect.

#### Commencement Information

**I23** S. 23 wholly in force at 28.7.2001; s. 23 not in force at Royal Assent see s. 108; s. 23 in force at 7.8.2000 for certain purposes in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(c\)](#); s. 23 in force at 26.10.2000 in relation to England only for certain purposes by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); s. 23 in force at 1.11.2000 in relation to Wales for certain purposes by [S.I. 2000/2948](#), [art. 2](#); s. 23 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### 24 Absence of requirement for political balance. **E+W**

Neither—

- (a) a local authority executive, nor
- (b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the <sup>M21</sup>Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

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#### Commencement Information

**I24** S. 24 wholly in force at 28.7.2001; s. 24 not in force at Royal Assent see s. 108; s. 24 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3), 2(a)**; s. 24 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M21** 1989 c. 42.

### *Procedure with respect to operation of executive arrangements*

## 25 **Proposals.** **E+W**

- (1) Subject to section 31, every local authority must—
  - (a) draw up proposals for the operation of executive arrangements, and
  - (b) send a copy of the proposals to the Secretary of State.
- (2) Before drawing up proposals under this section, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (3) In drawing up proposals under this section, a local authority must decide—
  - (a) which form the executive is to take, and
  - (b) the extent to which the functions specified in regulations under section 13(3) are to be the responsibility of the executive.
- (4) In drawing up proposals under this section, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (5) A local authority must comply with any directions given by the Secretary of State for the purposes of this section.
- (6) Proposals under this section must include—
  - (a) such details of the executive arrangements as the Secretary of State may direct,
  - (b) a timetable with respect to the implementation of the proposals, and
  - (c) details of any transitional arrangements which are necessary for the implementation of the proposals.
- (7) A copy of proposals under this section which is sent to the Secretary of State must be accompanied by a statement which describes—
  - (a) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and
  - (b) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.
- (8) The Secretary of State may by order specify a date by which every local authority, or every local authority falling within any description of authority specified in the order, must comply with this section.

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#### Commencement Information

**I25** S. 25 wholly in force at 28.7.2001; s. 25 not in force at Royal Assent see s. 108; s. 25 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, arts. 1(3), 2(b); s. 25 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, arts. 1(3), 2(b); s. 25(5)(6)(8) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 25 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 26 Proposals not requiring referendum. **E+W**

- (1) Where a local authority's proposals under section 25 do not involve a form of executive for which a referendum is required, the authority must implement the proposals in accordance with the timetable included in the proposals.
- (2) Any reference in this Part to a form of executive for which a referendum is required is a reference to—
  - (a) a mayor and cabinet executive,
  - (b) a mayor and council manager executive, or
  - (c) a form of executive prescribed in regulations under section 11(5) which is expressed in those regulations to be a form of executive for which a referendum is required.

#### Commencement Information

**I26** S. 26 wholly in force at 28.7.2001; s. 26 not in force at Royal Assent see s. 108; s. 26 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(a); s. 26 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 27 Referendum in case of proposals involving elected mayor. **E+W**

- (1) Where a local authority's proposals under section 25 involve a form of executive for which a referendum is required, the authority—
  - (a) must hold a referendum on their proposals before taking any steps to implement them, and
  - (b) must draw up and send to the Secretary of State an outline of the fall-back proposals (referred to in this section as outline fall-back proposals) that they intend to implement if the proposals under section 25 are rejected in a referendum.
- (2) Fall-back proposals are proposals—
  - (a) for the operation of executive arrangements which do not involve a form of executive for which a referendum is required, or
  - (b) for the operation of alternative arrangements of a particular type permitted by regulations under section 32.
- (3) For the purpose of drawing up outline fall-back proposals, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

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- (4) Outline fall-back proposals must include a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals under section 25 are rejected in a referendum.
- (5) A local authority must send a copy of their outline fall-back proposals to the Secretary of State at the same time that a copy of the proposals under section 25 is sent to him.
- (6) A local authority may not hold a referendum under this section before the end of the period of two months beginning with the date on which a copy of the proposals under section 25 is sent to the Secretary of State.
- (7) If the result of a referendum under subsection (1) is to approve a local authority's proposals under section 25, the authority must implement the proposals in accordance with the timetable included in the proposals.
- (8) If the result of a referendum under subsection (1) is to reject a local authority's proposals under section 25, the authority—
  - (a) may not implement those proposals,
  - (b) must draw up detailed fall-back proposals which are based on the outline fall-back proposals, and
  - (c) must send a copy of the detailed fall-back proposals to the Secretary of State.
- (9) In drawing up outline fall-back proposals or detailed fall-back proposals under this section, a local authority must comply with any directions given by the Secretary of State.
- (10) Outline fall-back proposals and detailed fall-back proposals must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State may direct.
- (11) Subsections (2), (3)(b), (4) and (6)(c) of section 25 are to apply to detailed fall-back proposals involving executive arrangements as they apply to proposals under that section.
- (12) Subsections (2), (4) and (6)(c) of that section are to apply to detailed fall-back proposals involving alternative arrangements as they apply to proposals under that section.
- (13) A local authority must implement detailed fall-back proposals in accordance with the timetable mentioned in subsection (4).

#### Modifications etc. (not altering text)

- C24** S. 27(1)(a) applied (W.) (9.12.2004) by [The Local Authorities \(Changing Executive Arrangements and Alternative Arrangements\) \(Wales\) Regulations 2004 \(S.I. 2004/3158\)](#), regs. 1(1), **5(1)**
- C25** S. 27(13) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), regs. 1(1), **17(7)**

#### Commencement Information

- I27** S. 27 wholly in force at 28.7.2001; s. 27 not in force at Royal Assent see s. 108; s. 27 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), **arts. 1(3), 2(b)**; s. 27 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), **arts. 1(3), 2(b)**; s. 27(9)

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(10) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 27 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 28 Approval of outline fall-back proposals. **E+W**

- (1) A local authority may apply to the Secretary of State for the approval of outline fall-back proposals involving fall-back proposals which are not permitted by or under this Part but which would be so permitted if the necessary regulations were made under section 11(5) or 32 (as the case may be).
- (2) The form and content of an application under subsection (1) must comply with any directions given by the Secretary of State.
- (3) Where the Secretary of State approves a local authority's proposals under subsection (1)—
  - (a) the authority may use those proposals as their outline fall-back proposals for the purposes of section 27, and
  - (b) the timetable referred to in section 27(13) shall be extended to the extent that there is any delay in making the necessary regulations under section 11(5) or 32 (as the case may be).

### Commencement Information

- I28** S. 28 wholly in force at 28.7.2001; s. 28 not in force at Royal Assent see s. 108; s. 28 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 28 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 28(1)(2) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 28 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 29 Operation of, and publicity for, executive arrangements. **E+W**

- (1) A resolution of a local authority is required in order for the authority to operate executive arrangements.
- (2) As soon as practicable after passing such a resolution a local authority must—
  - (a) secure that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at all reasonable hours, and
  - (b) publish in one or more newspapers circulating in their area a notice which—
    - (i) states that they have resolved to operate the arrangements,
    - (ii) states the date on which they are to begin operating the arrangements,
    - (iii) describes the main features of the arrangements,
    - (iv) states that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and
    - (v) specifies the address of their principal office.
- (3) A local authority which pass a resolution under this section may not at any subsequent time cease to operate executive arrangements unless, by virtue of any provision made

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under section 33(5), the authority operate alternative arrangements in place of the executive arrangements.

#### Modifications etc. (not altering text)

- C26** S. 29(1) applied (E.) (12.4.2001) by [S.I. 2001/1003](#), [reg. 10\(1\)](#)
- C27** S. 29(1) applied (W.) (25.11.2002) by [S.I. 2002/2880](#), [reg. 7\(1\)](#)
- C28** S. 29(1) applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), [regs. 1\(1\), 17\(8\)\(a\)](#)
- C29** S. 29(1) applied (9.12.2004) by [The Local Authorities \(Changing Executive Arrangements and Alternative Arrangements\) \(Wales\) Regulations 2004 \(S.I. 2004/3158\)](#), [regs. 1\(1\), 9\(1\)](#)
- C30** S. 29(2) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), [regs. 1\(1\), 17\(8\)\(b\)](#)
- C31** S. 29(2) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), [regs. 1\(1\), 17\(9\)\(b\)](#)

#### Commencement Information

- I29** S. 29 wholly in force at 28.7.2001; s. 29 not in force at Royal Assent see s. 108; s. 29 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 29 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### 30 Operation of different executive arrangements. **E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with the operation by a local authority which are operating executive arrangements (“the existing arrangements”) of executive arrangements (“the different arrangements”) which differ from the existing arrangements in any respect.
- (2) The provision which may be made by virtue of subsection (1) includes provision—
- which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29,
  - for or in connection with requiring the consent of an elected mayor under the existing arrangements to the operation of the different arrangements,
  - with respect to changes to the existing arrangements as a result of changes to the functions which are the responsibility of an executive.
- (3) Nothing in subsection (2) affects the generality of the power under subsection (1).

#### Commencement Information

- I30** S. 30 wholly in force at 1.11.2000; s. 30 not in force at Royal Assent see s. 108; s. 30 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 30 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

*Alternative arrangements.*

### 31 Alternative arrangements in case of certain local authorities. **E+W**

- (1) This section applies to—
- any local authority which falls within subsection (2), and

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- (b) any local authority which falls within any description of local authority specified in regulations made by the Secretary of State under this section.
- (2) A local authority falls within this subsection if—
- (a) it is the council for a district comprised in an area for which there is a county council, and
  - (b) the resident population of the authority's area on 30th June 1999 was less than 85,000.
- (3) For the purposes of subsection (2)(b) the resident population of any area on 30th June 1999 is to be taken to be the Registrar General's estimate of that population on that date.
- (4) A local authority to which this section applies must either—
- (a) draw up proposals for the operation of alternative arrangements of a particular type permitted by regulations under section 32, or
  - (b) draw up proposals under section 25.
- (5) In deciding whether to draw up proposals under this section or proposals under section 25, a local authority to which this section applies must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (6) In drawing up proposals under this section, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (7) A local authority which draw up proposals under this section must comply with such requirements as may be specified in regulations made by the Secretary of State under this section.
- (8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.
- (9) Nothing in subsection (8) affects the generality of the power under subsection (7).

#### Commencement Information

**I31** S. 31 wholly in force at 28.7.2001; s. 31 not in force at Royal Assent see s. 108; s. 31 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 31 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 31(1)(b) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 31 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 32 Alternative arrangements. **E+W**

- (1) The Secretary of State may by regulations specify arrangements by a local authority with respect to the discharge of their functions (referred to in this Part as alternative arrangements) which are arrangements of a type—

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- (a) which do not involve the creation and operation of an executive of the authority,
  - (b) which include arrangements for the appointment of committees or sub-committees of the authority to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority, and
  - (c) which the Secretary of State considers are likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.
- (2) The arrangements which may be specified by regulations under this section include—
- (a) arrangements for the discharge of functions of a local authority by individual members of the authority or by individual members of any committee or sub-committee of the authority,
  - (b) arrangements for the appointment of committees or sub-committees of a local authority the membership of which is determined otherwise than in accordance with the political balance requirements.
- (3) Regulations under this section may make provision with respect to committees or sub-committees falling within subsection (1)(b) (including provision which applies or reproduces (with or without modifications) any provisions of section 21 or paragraphs 7 to 11 of Schedule 1<sup>F9</sup>, any provision made <sup>F10</sup>, in the case of regulations made by the Secretary of State, under section 244 of the National Health Service Act 2006 or any provision of section 246 of, or Schedule 17 to, that Act or, in the case of regulations made by the Welsh Ministers, under section 184 of the National Health Service (Wales) Act 2006 or any provision of section 186 of, or Schedule 11 to, that Act **]]**.
- (4) Regulations under this section may make provision for the purpose of determining the functions of a local authority which may, may not or must be the subject of alternative arrangements of any particular type.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

#### Textual Amendments

**F9** Words in s. 32(3) inserted (1.1.2003 for E.) by [Health and Social Care Act 2001 \(c. 15\)](#), s. 70(2), [Sch. 5 para. 13](#) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(c)

**F10** Words in s. 32(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 206](#) (with Sch. 3 Pt. 1)

#### Commencement Information

**I32** S. 32 wholly in force at 1.11.2000; s. 32 not in force at Royal Assent see s. 108; s. 32 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\)](#), [2\(a\)](#); s. 32 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### 33 Operation of alternative arrangements. **E+W**

- (1) A local authority may not operate alternative arrangements unless permitted or required to do so by virtue of any provision made by or under this Part.
- (2) A resolution of a local authority is required in order for the authority to operate alternative arrangements.



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- (3) Subsection (2) of section 29 is to apply for the purposes of this section as it applies for the purposes of that section.
- (4) A local authority which pass a resolution under this section to operate alternative arrangements may not at any subsequent time cease to operate those arrangements unless, by virtue of any provision made under subsection (9) or section 34, 35 or 36, the authority operate executive arrangements in place of those arrangements.
- (5) The Secretary of State may by regulations make provision for or in connection with enabling a local authority to which section 31 applies which are operating executive arrangements to operate alternative arrangements in place of the executive arrangements.
- (6) The provision which may be made by virtue of subsection (5) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27 or 28.
- (7) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate alternative arrangements which differ from the existing alternative arrangements in any respect.
- (8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.
- (9) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate executive arrangements in place of the alternative arrangements.
- (10) The provision which may be made by virtue of subsection (9) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29.
- (11) Nothing in subsection (6), (8) or (10) affects the generality of the power under subsection (5), (7) or (9) (as the case may be).

#### **Modifications etc. (not altering text)**

- C32** S. 33(2) applied (W.) (25.11.2002) by [S.I. 2002/2880, reg. 7\(2\)](#)
- C33** S. 33(2) applied (E.) (12.4.2001) by [S.I. 2001/1003, reg. 10\(2\)](#)
- C34** S. 33(2) applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\), regs. 1\(1\), 17\(9\)\(a\)](#)
- C35** S. 33(2) applied (W.) (9.12.2004) by [The Local Authorities \(Changing Executive Arrangements and Alternative Arrangements\) \(Wales\) Regulations 2004 \(S.I. 2004/3158\), regs. 1\(1\), 9\(2\)](#)

#### **Commencement Information**

- I33** S. 33 wholly in force at 28.7.2001; s. 33 not in force at Royal Assent see s. 108; s. 33 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187, arts. 1\(3\), 2\(b\)](#); s. 33 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849, arts. 1\(3\), 2\(b\)](#); s. 33(5)-(11) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948, art. 2](#); s. 33 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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## *Referendums*

### **34 Referendum following petition. E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with requiring a local authority which receive a petition which complies with the provisions of the regulations to hold a referendum, in such circumstances as may be prescribed in the regulations, on whether the authority should operate executive arrangements involving a form of executive for which a referendum is required.
- (2) The provision which may be made by regulations under subsection (1) includes provision—
  - (a) as to the form and content of petitions (including provision for petitions in electronic form),
  - (b) as to the minimum number of local government electors for a local authority's area who must support any petition presented to the authority during any period specified in the regulations,
  - (c) for or in connection with requiring an officer of a local authority to publish the number of local government electors for the authority's area who must support any petition presented to the authority,
  - (d) as to the way in which local government electors for a local authority's area are to support a petition (including provision enabling local government electors to support petitions by telephone or by electronic means),
  - (e) as to the action which may, may not or must be taken by a local authority in connection with any petition,
  - (f) as to the manner in which a petition is to be presented to a local authority,
  - (g) as to the verification of any petition,
  - (h) as to the date on which, or the time by which, a referendum must be held,
  - (i) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
  - (j) as to the action which may, may not or must be taken by a local authority after a referendum, and
  - (k) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33.
- (4) The number of local government electors mentioned in subsection (2)(b) is to be calculated at such times as may be provided by regulations under this section and (unless such regulations otherwise provide) is to be 5 per cent. of the number of local government electors at each of those times.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

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#### Commencement Information

**I34** S. 34 wholly in force at 1.11.2000; s. 34 not in force at Royal Assent s. 108; s. 34 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 34 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### 35 Referendum following direction. **E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with enabling him, in such circumstances as may be prescribed in the regulations, to direct a local authority to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the direction.
- (2) The provision which may be made by regulations under this section includes provision—
  - (a) as to the date on which, or the time by which, a referendum must be held,
  - (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
  - (c) as to the action which may, may not or must be taken by a local authority after a referendum, and
  - (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33.
- (4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

#### Commencement Information

**I35** S. 35 wholly in force at 1.11.2000; s. 35 not in force at Royal Assent see s. 108; s. 35 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 35 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### 36 Referendum following order. **E+W**

- (1) The Secretary of State may by order make provision requiring every local authority, or every local authority falling within any description of authority specified in the order, to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the order.
- (2) The provision which may be made by an order under this section includes provision—
  - (a) as to the date on which, or the time by which, a referendum must be held,
  - (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,

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- (c) as to the action which may, may not or must be taken by a local authority after a referendum,
  - (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33.
- (4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

#### Commencement Information

**I36** S. 36 wholly in force at 1.11.2000; s. 36 not in force at Royal Assent see s. 108; s. 36 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 36 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### *Local authority constitution*

#### 37 Local authority constitution. **E+W**

- (1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains—
- (a) such information as the Secretary of State may direct,
  - (b) a copy of the authority’s standing orders for the time being,
  - (c) a copy of the authority’s code of conduct for the time being under section 51, and
  - (d) such other information (if any) as the authority consider appropriate.
- (2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.
- (3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

#### Commencement Information

**I37** S. 37 wholly in force at 28.7.2001; s. 37 not in force at Royal Assent see s. 108; s. 37 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 37 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 37(1) (a) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 37 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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## Guidance

### 38 Guidance. **E+W**

- (1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.
- (2) Guidance under this section may make different provision for different cases or descriptions of local authority.

#### Commencement Information

**I38** S. 38 wholly in force at 1.11.2000; s. 38 not in force at Royal Assent see s. 108; s. 38 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 38 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

## Elected mayors etc.

### 39 Elected mayors etc. **E+W**

- (1) In this Part “elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority’s area in accordance with the provisions made by or under this Part.
- (2) An elected mayor of a local authority in England is to be entitled to the style of “mayor”.
- (3) An elected mayor of a local authority in Wales is to be entitled to the style of “mayor” or “maer”.
- (4) In this Part “elected executive member” means an individual elected as a member of a local authority executive by the local government electors for the authority’s area in accordance with the provisions made by or under this Part, but does not include an elected mayor.
- (5) An elected mayor of a local authority is to be treated as a member or councillor of the authority for the purposes of such enactments (whenever passed or made) as may be specified in regulations made by the Secretary of State under this subsection.
- (6) Subject to regulations under section 41, the term of office of an elected mayor or elected executive member is to be four years.

#### Commencement Information

**I39** S. 39 wholly in force at 28.7.2001; s. 39 not in force at Royal Assent see s. 108; s. 39 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 39(1)(2)(4)-(6) in force at 26.10.2000 in relation to England except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(d\)](#); s. 39(1)(3)-(5) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 39 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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#### 40 Election as elected mayor and councillor. **E+W**

- (1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy shall arise in the office of councillor.
- (2) If the person who is returned at an election (“the mayoral election”) as the elected mayor of a local authority—
  - (a) is a councillor of the authority, and
  - (b) was returned as such a councillor at an election held at an earlier time than the mayoral election,
 a vacancy shall arise in the office of councillor.
- (3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.
- (4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if he is a candidate in both such elections and he is returned both as the elected mayor and as a councillor.

#### 41 Time of elections etc. **E+W**

The Secretary of State may by regulations make provision—

- (a) as to the dates on which and years in which elections for the return of elected mayors or elected executive members may or must take place,
- (b) as to the intervals between elections for the return of elected mayors or elected executive members,
- (c) as to the term of office of elected mayors or elected executive members, and
- (d) as to the filling of vacancies in the office of elected mayor or elected executive member.

##### Commencement Information

**I40** S. 41 wholly in force at 1.11.2000; s. 41 not in force at Royal Assent see s. 108; s. 41 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 41 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### 42 Voting at elections of elected mayors. **E+W**

- (1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—
  - (a) one vote (referred to in this Part as a first preference vote) which may be given for the voter’s first preference from among the candidates to be the elected mayor, and
  - (b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter’s second preference from among those candidates.

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- (2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.
- (3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

**Modifications etc. (not altering text)**

**C36** S. 42(2) applied by SI 2002/185 Sch. 3 rule 48(1) (as substituted (13.3.2004) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/225\)](#), regs. 1, 2(7), [Sch.](#))

**43 Entitlement to vote. E+W**

- (1) The persons entitled to vote as electors at an election for the return of an elected mayor or elected executive member are those who on the day of the poll—
  - (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and
  - (b) are registered in the register of local government electors at an address within the authority's area.
- (2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

**44 Power to make provision about elections. E+W**

- (1) The Secretary of State may by regulations make provision as to—
  - (a) the conduct of elections for the return of elected mayors or elected executive members, and
  - (b) the questioning of elections for the return of elected mayors or elected executive members and the consequences of irregularities.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
  - (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses),
  - (d) for the combination of polls at elections for the return of elected mayors and other elections (including elections for the return of elected executive members), and
  - (e) for the combination of polls at elections for the return of elected executive members and other elections (including elections for the return of elected mayors).
- (3) Regulations under this section may—
  - (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,

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- (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors or elected executive members, and
- (c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

<sup>F11</sup>[( 3A ) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission.

(3B) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) shall be exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.]

(4) No return of an elected mayor or elected executive member at an election is to be questioned except by an election petition under the provisions of Part III of the <sup>M22</sup>Representation of the <sup>M23</sup>People Act 1983 as applied by or incorporated in regulations under this section.

#### Textual Amendments

**F11** S. 44(3A)(3B) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(2)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (with Sch. 2 Pt. II para. 2)

#### Commencement Information

**I41** S. 44 wholly in force at 28.7.2001; s. 44 not in force at Royal Assent see s. 108; s. 44 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3), 2(b)**; s. 44 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 44 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M22** 1983 c. 2.

**M23** 1983 c. 2.

### *Provisions with respect to referendums*

#### **45 Provisions with respect to referendums. E+W**

- (1) A local authority may not hold more than one referendum in any period of five years.
- (2) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to approve the proposals to which the referendum relates, the local authority concerned must implement those proposals in accordance with any provision made by the regulations or order.
- (3) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to reject the proposals to which the referendum relates, the



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local authority concerned may not implement those proposals but must instead comply with any provision made by the regulations or order.

- (4) The persons entitled to vote in a referendum held by a local authority are those who on the day of the referendum—
- (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the authority's area, and
  - (b) are registered in the register of local government electors at an address within the authority's area.
- (5) The Secretary of State may by regulations make provision as to the conduct of referendums.
- (6) The Secretary of State may by regulations make provision for the combination of polls at referendums with polls at any elections.
- (7) Regulations under subsection (5) or (6) may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.
- (8) The provision which may be made under subsection (5) includes, in particular, provision—
- (a) as to the question to be asked in a referendum,
  - (b) as to the publicity to be given in connection with a referendum (including the publicity to be given with respect to the consequences of the referendum),
  - (c) about the limitation of expenditure in connection with a referendum (and the creation of criminal offences in connection with the limitation of such expenditure),
  - (d) as to the conduct of the authority, members of the authority and officers of the authority in relation to a referendum,
  - (e) as to when, where and how voting in a referendum is to take place,
  - (f) as to how the votes cast in a referendum are to be counted, and
  - (g) for disregarding alterations in a register of electors.

<sup>F12</sup>[( 8A ) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission, but this subsection does not apply to—

- (a) provisions which specify the wording of the question to be asked in a referendum, or
- (b) provisions for matters mentioned in subsection (8)(c).

(8B) No regulations which specify the wording of the question to be asked in a referendum may be made under subsection (5) unless—

- (a) before laying a draft of the regulations before Parliament in accordance with section 105(6), the Secretary of State consulted the Electoral Commission as to the intelligibility of that question, and
- (b) when so laying the draft, the Secretary of State also laid before each House a report stating any views as to the intelligibility of that question which were expressed by the Electoral Commission in response to that consultation.

(8C) Where any such regulations specify not only the question to be asked in a referendum but also any statement which is to precede that question on the ballot paper at the referendum, any reference in subsection (8B) to the intelligibility of that question is

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to be read as a reference to the intelligibility of that question and that statement taken together.

(8D) No regulations which make provision for the matters mentioned in subsection (8)(c) may be made under subsection (5) unless—

- (a) before laying a draft of the regulations before Parliament in accordance with section 105(6), the Secretary of State sought, and had regard to, the views of the Electoral Commission as to the provision to be made by the regulations as to those matters, and
- (b) where the draft regulations laid before Parliament made provision as to those matters otherwise than in accordance with the views of the Electoral Commission, the Secretary of State, when so laying the draft, also laid before each House a statement of his reasons for departing from the views of the Commission.]

(9) In subsections (1), (4) to (6) and (8) [F13 to (8C)] “referendum” means a referendum held under section 27 or by virtue of regulations or an order made under any provision of this Part.

#### Textual Amendments

**F12** S. 45(8A)-(8D) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(3)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (Sch. 2 Pt. II para. 2)

**F13** Words in s. 45(9) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(4)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (Sch. 2 Pt. II para. 2)

#### Commencement Information

**I42** S. 45 wholly in force at 28.7.2001; s. 45 not in force at Royal Assent see s. 108; s. 45 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3), 2(b)**; s. 45(5)-(9) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 45 in force at 19.2.2001 in relation to England only except in so far as not already in force by S.I. 2001/415, **arts. 1(3), 2(a)**; s. 45 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### Amendments to the 1972 Act

#### 46 Amendments to the 1972 Act. **E+W**

Schedule 3, which contains amendments to the <sup>M24</sup>Local Government Act 1972, has effect.

#### Commencement Information

**I43** S. 46 wholly in force at 28.7.2001; s. 46 not in force at Royal Assent see s. 108; s. 46 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, **arts. 1(3), 2(e)**; s. 46 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M24** 1972 c. 70.

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### *Power to make further provision*

#### **47 Power to make incidental, consequential provision etc. E+W**

- (1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Part.
- (2) The provision which may be made under subsection (1) includes provision modifying any enactment (whenever passed or made).
- (3) The power under subsection (2) to modify an enactment is a power—
  - (a) to apply that enactment with or without modifications,
  - (b) to extend, disapply or amend that enactment, or
  - (c) to repeal or revoke that enactment with or without savings.

#### **Commencement Information**

**I44** S. 47 wholly in force at 1.11.2000; s. 47 not in force at Royal Assent see s. 108; s. 47 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 47 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### *Interpretation*

#### **48 Interpretation of Part II. E+W**

- (1) In this Part, unless the context otherwise requires—
  - “alternative arrangements” has the meaning given by section 32(1),
  - “council manager” has the meaning given by section 11(4)(b),
  - “elected executive member” has the meaning given by section 39(4),
  - “elected mayor” has the meaning given by section 39(1),
  - “electoral area” has the meaning given by section 203(1) of the <sup>M25</sup>Representation of the People Act 1983,
  - “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the <sup>M26</sup>Interpretation Act 1978),
  - “executive”, in relation to a local authority, is to be construed in accordance with section 11,
  - “executive arrangements” has the meaning given by section 10,
  - “executive leader” has the meaning given by section 11(3)(a),
  - “fall-back proposals” and “outline fall-back proposals” are to be construed in accordance with section 27(1) and (2),
  - “first preference vote” has the meaning given by section 42(1)(a),
  - “local authority” means—
    - (a) in relation to England, a county council, a district council or a London borough council, and
    - (b) in relation to Wales, a county council or a county borough council,
  - “local government elector” has the meaning given by section 270(1) of the <sup>M27</sup>Local Government Act 1972,

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“overview and scrutiny committee” has the meaning given by section 21(1),

“the political balance requirements” means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the <sup>M28</sup>Local Government and Housing Act 1989,

“second preference vote” has the meaning given by section 42(1)(b).

- (2) Any reference in this Part to the chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
  - (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the <sup>M29</sup>Local Government Act 1972) is referred to in Part I of that Schedule as the mayor of the borough.
- (3) Any reference in this Part to the vice-chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
  - (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the <sup>M30</sup>Local Government Act 1972) is referred to in Part I of that Schedule as the deputy mayor.
- (4) Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.
- (5) Section 101 of the <sup>M31</sup>Local Government Act 1972 does not apply to the function of the passing of a resolution under any provision made by or under this Part.
- (6) Any functions conferred on a local authority by virtue of this Part are not to be the responsibility of an executive of the authority under executive arrangements.
- (7) Any directions given by the Secretary of State under any provision of this Part—
- (a) may be varied or revoked by subsequent directions given by him under that provision, and
  - (b) may make different provision for different cases, local authorities or descriptions of local authority.

#### Commencement Information

**I45** S. 48 wholly in force at 1.11.2000; s. 48 not in force at Royal Assent see s. 108(4)-(6); s. 48 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), **arts. 1(3), 2(a)**; s. 48 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), **art. 2**

#### Marginal Citations

**M25** 1983 c. 2.  
**M26** 1978 c. 30.  
**M27** 1972 c. 70.  
**M28** 1989 c. 42.  
**M29** 1972 c. 70.  
**M30** 1972 c. 70.  
**M31** 1972 c. 70.

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## PART III U.K.

### CONDUCT OF LOCAL GOVERNMENT MEMBERS AND EMPLOYEES

#### Modifications etc. (not altering text)

- C37 Pt. III applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **14(1)**
- C38 Pt. III applied (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **14(1)**
- C39 Pt. III applied (24.3.2005) by [New Forest National Park Authority \(Establishment\) Order 2005 \(S.I. 2005/421\)](#), art. 1, **Sch. 4 para. 9(3)**
- C40 Pt. III savings for effects of 2005 c. 10, s. 38 (1.4.2006) by [The Public Services Ombudsman \(Wales\) Act 2005 \(Transitional Provisions and Consequential Amendments\) Order 2006 \(S.I. 2006/362\)](#), arts. 1(1), **4**

## CHAPTER I E+W

### CONDUCT OF MEMBERS

#### *Standards of conduct*

#### 49 Principles governing conduct of members of relevant authorities. E+W

- (1) The Secretary of State may by order specify the principles which are to govern the conduct of members and co-opted members of relevant authorities in England and police authorities in Wales.
- (2) The National Assembly for Wales may by order specify the principles which are to govern the conduct of members and co-opted members of relevant authorities in Wales (other than police authorities).
- (3) Before making an order under this section, the Secretary of State must consult—
  - (a) such representatives of relevant authorities in England as he considers appropriate,
  - (b) the Audit Commission,
  - (c) the Commission for Local Administration in England, and
  - (d) such other persons (if any) as he considers appropriate.
- (4) Before making an order under this section so far as it relates to police authorities in Wales, the Secretary of State must consult—
  - (a) such representatives of police authorities in Wales as he considers appropriate,
  - [<sup>F14</sup>(aa) the Auditor General for Wales,]
  - (b) [<sup>F15</sup>the Public Services Ombudsman for Wales], and
  - (c) the National Assembly for Wales.
- (5) Before making an order under this section, the National Assembly for Wales must consult—
  - (a) such representatives of relevant authorities in Wales as it considers appropriate,

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- (b) the <sup>F16</sup>Auditor General for Wales],
  - (c) <sup>F17</sup>the Public Services Ombudsman for Wales], and
  - (d) such other persons (if any) as it considers appropriate.
- (6) In this Part “relevant authority” means—
- (a) a county council,
  - (b) a county borough council,
  - (c) a district council,
  - (d) a London borough council,
  - (e) a parish council,
  - (f) a community council,
  - (g) the Greater London Authority,
  - (h) the Metropolitan Police Authority,
  - (i) the London Fire and Emergency Planning Authority,
  - (j) the Common Council of the City of London in its capacity as a local authority or police authority,
  - (k) the Council of the Isles of Scilly,
  - <sup>F18</sup>(l) a fire and rescue authority 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,]
  - (m) a police authority,
  - (n) a joint authority established by Part IV of the <sup>M32</sup>Local Government Act 1985,
  - (o) the Broads Authority, or
  - (p) a National Park authority established under section 63 of the <sup>M33</sup>Environment Act 1995.
- (7) In this Part “co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who—
- (a) is a member of any committee or sub-committee of the authority, or
  - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,
- and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee.

#### Textual Amendments

- F14** S. 49(4)(aa) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 53(1)(2); S.I. 2005/558, art. 2, Sch. 1
- F15** Words in s. 49(4)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 4 para. 2(a)**; S.I. 2005/2800, arts. 4(1)(a)(2), 5(1)(3) (with art. 4(3))
- F16** Words in s. 49(5)(b) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 53(1)(3); S.I. 2005/558, art. 2, Sch. 1
- F17** Words in s. 49(5)(c) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, **Sch. 4 para. 2(b)**; S.I. 2005/2800, arts. 4(1)(a)(2), 5(1)(3) (with art. 4(3))
- F18** S. 49(6)(l) substituted (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, **Sch. 1 para. 94**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2

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#### Commencement Information

**I46** S. 49 wholly in force at 28.7.2001; s. 49 not in force at Royal Assent see s. 108; s. 49(2)(5)(6)(a)(b)(f)(l)(m)(p)(7) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 49 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 49 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M32** 1985 c. 51.  
**M33** 1995 c. 25.

## 50 Model code of conduct. **E+W**

- (1) The Secretary of State may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in England and police authorities in Wales (referred to in this Part as a model code of conduct).
- (2) The National Assembly for Wales may by order issue a model code as regards the conduct which is expected of members and co-opted members of relevant authorities in Wales other than police authorities (also referred to in this Part as a model code of conduct).
- (3) The power under subsection (1) or (2) to issue a model code of conduct includes power to revise any such model code which has been issued.
- (4) A model code of conduct—
  - (a) must be consistent with the principles for the time being specified in an order under section 49(1) or 49(2) (as the case may be),
  - (b) may include provisions which are mandatory, and
  - (c) may include provisions which are optional.
- (5) Before making an order under this section, the Secretary of State or the National Assembly for Wales must carry out such consultation as is required, by virtue of section 49, before an order is made under that section.
- (6) For the purpose of facilitating the making of an order under this section, the Secretary of State may invite such body as he considers appropriate to draw up, and send to him, a proposed model code of conduct or proposed revisions to such a model code.
- (7) An invitation under subsection (6)—
  - (a) must be made in writing,
  - (b) may be made to more than one body,
  - (c) may be limited to particular descriptions of authority,
  - (d) must specify the period within which the proposals are to be drawn up and sent to the Secretary of State,
  - (e) may require different proposals to be drawn up for different authorities or descriptions of authority, and
  - (f) may require any body to which the invitation is made to consult such persons as may be specified in the invitation.

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### Commencement Information

**I47** S. 50 wholly in force at 28.7.2001; s. 50 not in force at Royal Assent see s. 108; s. 50(2)-(7) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), **art. 2**; s. 50 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), **art. 2**; s. 50 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 51 Duty of relevant authorities to adopt codes of conduct. **E+W**

- (1) It is the duty of a relevant authority, 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, to pass a resolution adopting a code as regards the conduct which is expected of members and co-opted members of the authority (referred to in this Part as a code of conduct).
- (2) It is the duty of a relevant authority, before the end of the period of six months beginning with the day on which any subsequent order under section 50 which applies to them is made, to pass a resolution—
  - (a) adopting a code of conduct in place of their existing code of conduct under this section, or
  - (b) revising their existing code of conduct under this section.
- (3) A relevant authority may by resolution—
  - (a) adopt a code of conduct in place of their existing code of conduct under this section, or
  - (b) revise their existing code of conduct under this section.
- (4) A code of conduct or revised code of conduct—
  - (a) must incorporate any mandatory provisions of the model code of conduct which for the time being applies to that authority,
  - (b) may incorporate any optional provisions of that model code, and
  - (c) may include other provisions which are consistent with that model code.
- (5) Where a relevant authority fail to comply with the duty under subsection (1) or (2) before the end of the period mentioned in that subsection—
  - (a) they must comply with that duty as soon as reasonably practicable after the end of that period, and
  - (b) any mandatory provisions of the model code of conduct which for the time being applies to the authority are to apply in relation to the members and co-opted members of the authority for so long as the authority fail to comply with that duty.
- (6) As soon as reasonably practicable after adopting or revising a code of conduct under this section, a relevant authority must—
  - (a) ensure that copies of the code or revised code are available at an office of the authority for inspection by members of the public at all reasonable hours,
  - (b) publish in one or more newspapers circulating in their area a notice which—
    - (i) states that they have adopted or revised a code of conduct,
    - (ii) states that copies of the code or revised code are available at an office of the authority for inspection by members of the public at such times as may be specified in the notice, and



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- (iii) specifies the address of that office, and
- (c) send a copy of the code or revised code—
  - (i) in the case of a relevant authority in England or a police authority in Wales, to the Standards Board for England,
  - (ii) in the case of a relevant authority in Wales, to the <sup>F19</sup>Public Services Ombudsman for Wales ].
- (7) Where a relevant authority themselves publish a newspaper, the duty to publish a notice under subsection (6)(b) is to be construed as a duty to publish that notice in their newspaper and at least one other newspaper circulating in their area.
- (8) A relevant authority may publicise their adoption or revision of a code of conduct under this section in any other manner that they consider appropriate.
- (9) A relevant authority’s function with respect to the passing of a resolution under this section may be discharged only by the authority (and accordingly, in the case of a relevant authority to which section 101 of the <sup>M34</sup>Local Government Act 1972 applies, is not to be a function to which that section applies).

#### Textual Amendments

- F19** Words in s. 51(6)(c)(ii) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 3](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

#### Modifications etc. (not altering text)

- C41** S. 51 modified (24.3.2005) by [New Forest National Park Authority \(Establishment\) Order 2005 \(S.I. 2005/421\), art. 1, Sch. 4 para. 10](#)

#### Commencement Information

- I48** S. 51 wholly in force at 28.7.2001; s. 51 not in force at Royal Assent see s. 108; s. 51 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335, art. 2](#); s. 51 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

- M34** [1972 c. 70.](#)

## 52 Duty to comply with code of conduct. **E+W**

- (1) A person who is a member or co-opted member of a relevant authority at a time when the authority adopt a code of conduct under section 51 for the first time—
  - (a) must, before the end of the period of two months beginning with the date on which the code of conduct is adopted, give to the authority a written undertaking that in performing his functions he will observe the authority’s code of conduct for the time being under section 51, and
  - (b) if he fails to do so, is to cease to be a member or co-opted member at the end of that period.
- (2) The form of declaration of acceptance of office which may be prescribed by an order under section 83 of the <sup>M35</sup>Local Government Act 1972 may include an undertaking by the declarant that in performing his functions he will observe the authority’s code of conduct for the time being under section 51.

**Status:** Point in time view as at 01/03/2007. This version of this Act contains provisions that are not valid for this point in time.

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- (3) A person who becomes a member of a relevant authority to which section 83 of that Act does not apply at any time after the authority have adopted a code of conduct under section 51 for the first time may not act in that office unless he has given the authority a written undertaking that in performing his functions he will observe the authority's code of conduct for the time being under section 51.
- (4) A person who becomes a co-opted member of a relevant authority at any time after the authority have adopted a code of conduct under section 51 for the first time may not act as such unless he has given the authority a written undertaking that in performing his functions he will observe the authority's code of conduct for the time being under section 51.

#### Commencement Information

**I49** S. 52 wholly in force at 28.7.2001; s. 52 not in force at Royal Assent see s. 108; s. 52 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 52 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M35** 1972 c. 70.

### *Standards committees*

#### 53 Standards committees. **E+W**

- (1) Subject to subsection (2), every relevant authority must establish a committee (referred to in this Part as a standards committee) which is to have the functions conferred on it by or under this Part.
- (2) Subsection (1) does not apply to a parish council or community council.
- (3) The number of members of a standards committee of a relevant authority in England or a police authority in Wales and their term of office are to be fixed by the authority (subject to any provision made by virtue of subsection (6)(a)).
- (4) A standards committee of a relevant authority in England or a police authority in Wales must include—
  - (a) at least two members of the authority, and
  - (b) at least one person who is not a member, or an officer, of that or any other relevant authority.
- (5) A standards committee of a relevant authority in England which are operating executive arrangements—
  - (a) may not include the elected mayor or executive leader, and
  - (b) may not be chaired by a member of the executive.
- (6) The Secretary of State may by regulations make provision—
  - (a) as to the size and composition of standards committees of relevant authorities in England and police authorities in Wales,
  - (b) as to the appointment to such committees of persons falling within subsection (4)(b),

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- (c) with respect to the access of the public to meetings of such committees,
  - (d) with respect to the publicity to be given to meetings of such committees,
  - (e) with respect to the production of agendas for, or records of, meetings of such committees,
  - (f) with respect to the availability to the public or members of relevant authorities of agendas for, records of or information connected with meetings of such committees,
  - (g) as to the proceedings and validity of proceedings of such committees.
- (7) The Standards Board for England—
- (a) may issue guidance with respect to the size and composition of standards committees of relevant authorities in England and police authorities in Wales, and
  - (b) must send a copy of any such guidance to the Secretary of State.
- (8) A member of a standards committee of a relevant authority in England or a police authority in Wales who is not a member of the authority is entitled to vote at meetings of the committee.
- (9) A relevant authority in England and a police authority in Wales must send a statement which sets out the terms of reference, or any revised terms of reference, of their standards committee to the Standards Board for England.
- (10) A standards committee of a relevant authority in England or a police authority in Wales is not to be regarded as a body to which section 15 of the <sup>M36</sup>Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- (11) The National Assembly for Wales may by regulations make provision—
- (a) as to the size and composition of standards committees of relevant authorities in Wales other than police authorities (including provision with respect to the appointment to any such committee of persons who are not members of the relevant authority concerned),
  - (b) as to the term of office of members of any such committees,
  - (c) as to the persons who may, may not or must chair any such committees,
  - (d) as to the entitlement to vote of members of any such committee who are not members of the relevant authority concerned,
  - (e) for or in connection with treating any such committees as bodies to which section 15 of the <sup>M37</sup>Local Government and Housing Act 1989 does not apply,
  - (f) with respect to the access of the public to meetings of such committees,
  - (g) with respect to the publicity to be given to meetings of such committees,
  - (h) with respect to the production of agendas for, or records of, meetings of such committees,
  - (i) with respect to the availability to the public or members of relevant authorities of agendas for, records of or information connected with meetings of any such committees,
  - (j) as to the proceedings and validity of proceedings of any such committees,
  - (k) for or in connection with requiring relevant authorities in Wales (other than police authorities) to send to [<sup>F20</sup>the Public Services Ombudsman for Wales] statements which set out the terms of reference of their standards committees.

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- (12) The provision which may be made by virtue of subsection (6)(c) to (f) or (11)(f) to (i) includes provision which applies or reproduces (with or without modifications) any provisions of Part VA of the Local Government Act 1972.

#### Textual Amendments

**F20** Words in s. 53(11)(k) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 4; S.I. 2005/2800, arts. 4\(1\)\(a\)\(2\), 5\(1\) \(with art. 4\(3\)\)](#)

#### Commencement Information

**I50** S. 53 wholly in force at 28.7.2001; s. 53 not in force at Royal Assent see s. 108; s. 53(11)(12) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948, art. 2](#); s. 53 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335, art. 2](#); s. 53 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M36** 1989 c. 42.

**M37** 1989 c. 42.

## 54 Functions of standards committees. E+W

- (1) The general functions of a standards committee of a relevant authority are—
- (a) promoting and maintaining high standards of conduct by the members and co-opted members of the authority, and
  - (b) assisting members and co-opted members of the authority to observe the authority's code of conduct.
- (2) Without prejudice to its general functions, a standards committee of a relevant authority has the following specific functions—
- (a) advising the authority on the adoption or revision of a code of conduct,
  - (b) monitoring the operation of the authority's code of conduct, and
  - (c) advising, training or arranging to train members and co-opted members of the authority on matters relating to the authority's code of conduct.
- (3) A relevant authority may arrange for their standards committee to exercise such other functions as the authority consider appropriate.
- (4) The Secretary of State may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities in England and police authorities in Wales.
- (5) The National Assembly for Wales may by regulations make provision with respect to the exercise of functions by standards committees of relevant authorities in Wales (other than police authorities).
- (6) The Standards Board for England may issue guidance with respect to the exercise of functions by standards committees of relevant authorities in England and police authorities in Wales.

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- (7) The National Assembly for Wales may issue guidance with respect to the exercise of functions by standards committees of relevant authorities in Wales (other than police authorities).

#### Commencement Information

**I51** S. 54 wholly in force at 28.7.2001; s. 54 not in force at Royal Assent see s. 108; s. 54(5)(7) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 54 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 54 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### [<sup>F21</sup>54A Sub-committees of standards committees **E+W**

- (1) A standards committee of a relevant authority may appoint one or more sub-committees for the purpose of discharging any of the committee's functions, whether or not to the exclusion of the committee.
- (2) Subsection (1) does not apply to functions under section 55 or 56.
- (3) A sub-committee under subsection (1) shall be appointed from among the members of the standards committee by which it is appointed.
- (4) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in England or of a police authority in Wales—
- (a) regulations under section 53(6)(a) and (c) to (g) may make provision in relation to such sub-committees, and
  - (b) sections 53(7), (8) and (10) and 54(4) and (6) apply in relation to such sub-committees as they apply in relation to standards committees.
- (5) As regards sub-committees appointed under subsection (1) by a standards committee of a relevant authority in Wales other than a police authority—
- (a) regulations under section 53(11) may make provision in relation to such sub-committees, and
  - (b) section 54(5) and (7) apply in relation to such sub-committees as they apply in relation to standards committees.
- (6) Subject to any provision made by regulations under section 53(6)(a) or (11)(a) (as applied by this section)—
- (a) the number of members of a sub-committee under subsection (1), and
  - (b) the term of office of those members,
- are to be fixed by the standards committee by which the sub-committee is appointed.]

#### Textual Amendments

**F21** S. 54A inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [ss. 113\(1\)](#), [128\(2\)\(d\)](#)

#### 55 Standards committees or sub-committees for parish councils. **E+W**

- (1) A standards committee of a district council is to have the same functions in relation to—

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- (a) the parish councils for which the district council are the responsible authority, and
  - (b) the members of those parish councils,
- as the standards committee has under section 54(1) and (2) in relation to the district council and the members of the district council.
- (2) A standards committee of a unitary county council is to have the same functions in relation to—
- (a) the parish councils for which the county council are the responsible authority, and
  - (b) the members of those parish councils,
- as the standards committee has under section 54(1) and (2) in relation to the county council and the members of the county council.
- (3) A standards committee of a district council or unitary county council may appoint a sub-committee for the purpose of discharging all of the functions conferred on the standards committee by this section.
- (4) In deciding whether it will be their standards committee, or a sub-committee of their standards committee, which is to discharge the functions conferred by this section, a district council or unitary county council must consult the parish councils for which they are the responsible authority.
- (5) The number of members of a sub-committee of a standards committee of a district council or unitary county council, and the term of office of those members, are to be fixed by the standards committee after consultation with the parish councils for which the district council or unitary county council are the responsible authority.
- (6) Where the standards committee of a district council or unitary county council discharges the functions conferred by this section, the standards committee—
- (a) must include at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority, and
  - (b) must ensure that at least one person falling within paragraph (a) is present at any meeting of the committee when matters relating to those parish councils, or the members of those parish councils, are being considered.
- (7) Where a sub-committee of the standards committee of a district council or unitary county council discharges the functions conferred by this section, the sub-committee must include—
- (a) at least one member of the standards committee who falls within section 53(4)(b), and
  - (b) at least one member of any of the parish councils for which the district council or unitary county council are the responsible authority.
- (8) Regulations under section 53(6)(a) and (c) to (g) may make provision in relation to sub-committees appointed under this section, and regulations under section 53(6)(b) may make provision as to the appointment of persons falling within subsection (6)(a) or (7)(a) or (b) of this section.
- (9) Subsections (7), (8), (9) and (10) of section 53 apply in relation to sub-committees of standards committees appointed under this section as they apply in relation to standards committees.

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- (10) Subsections (4) and (6) of section 54 apply in relation to sub-committees of standards committees appointed under this section as they apply in relation to standards committees.
- (11) Any function which by virtue of the following provisions of this Part is exercisable by or in relation to the standards committee of a relevant authority which is a parish council is to be exercisable by or in relation to—
- (a) the standards committee of the district council or unitary county council which are the responsible authority in relation to the parish council, or
  - (b) where that standards committee has appointed a sub-committee under this section, that sub-committee;
- and any reference in the following provisions of this Part to the standards committee of a relevant authority which is a parish council is to be construed accordingly.
- (12) A district council or unitary county council are the responsible authority—
- (a) in relation to a parish council which is not a common parish council, if the parish is situated within the area of the district council or county council,
  - (b) in relation to a parish council which is a common parish council—
    - (i) if the parishes in the group are wholly situated within that area, or
    - (ii) where that is not the case, if the greatest number of local government electors for the parishes in the group is situated in that area.
- (13) In this section “unitary county council” means the council of a county in England in which there are no district councils.

#### Commencement Information

**I52** S. 55 wholly in force at 28.7.2001; s. 55 not in force at Royal Assent see s. 108; s. 55 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 55 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 56 Standards committees or sub-committees for community councils. **E+W**

- (1) A standards committee of a county council in Wales is to have the same functions in relation to—
- (a) the community councils which are situated in the area of the county council, and
  - (b) the members of those community councils,
- as the standards committee has under section 54(1) and (2) in relation to the county council and the members of the county council.
- (2) A standards committee of a county borough council is to have the same functions in relation to—
- (a) the community councils which are situated in the area of the county borough council, and
  - (b) the members of those community councils,
- as the standards committee has under section 54(1) and (2) in relation to the county borough council and the members of the county borough council.

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- (3) A standards committee of a county council or county borough council may appoint a sub-committee for the purpose of discharging all of the functions conferred on the standards committee by this section.
- (4) In deciding whether it will be their standards committee, or a sub-committee of their standards committee, which is to discharge the functions conferred by this section, a county council or county borough council must consult the community councils which are situated in their area.
- (5) Regulations under section 53(11) may make provision in relation to sub-committees appointed under this section.
- (6) Subsections (5) and (7) of section 54 apply in relation to sub-committees of standards committees appointed under this section as they apply in relation to standards committees.
- (7) Any function which by virtue of the following provisions of this Part is exercisable by or in relation to the standards committee of a relevant authority which is a community council is to be exercisable by or in relation to—
  - (a) the standards committee of the county council or county borough council in whose area the community council is situated, or
  - (b) where that standards committee has appointed a sub-committee under this section, that sub-committee;

and any reference in the following provision of this Part to the standards committee of a relevant authority which is a community council is to be construed accordingly.

## CHAPTER II **U.K.**

### INVESTIGATIONS ETC: ENGLAND

#### *Standards Board for England*

#### 57 **Standards Board for England. **U.K.****

- (1) There is to be a body corporate known as the Standards Board for England.
- (2) The Standards Board for England is to consist of not less than three members appointed by the Secretary of State.
- (3) The Standards Board for England is to have the functions conferred on it by this Part and such other functions as may be conferred on it by order made by the Secretary of State under this subsection.
- (4) In exercising its functions the Standards Board for England must have regard to the need to promote and maintain high standards of conduct by members and co-opted members of relevant authorities in England.
- (5) The Standards Board for England—
  - (a) must appoint employees known as ethical standards officers who are to have the functions conferred on them by this Part,



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- (b) may issue guidance to relevant authorities in England and police authorities in Wales on matters relating to the conduct of members and co-opted members of such authorities,
  - (c) may issue guidance to relevant authorities in England and police authorities in Wales in relation to the qualifications or experience which monitoring officers should possess, and
  - (d) may arrange for any such guidance to be made public.
- (6) Schedule 4 makes further provision in relation to the Standards Board for England.

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**Commencement Information**

**I53** S. 57 wholly in force at 28.7.2001; s. 57 not in force at Royal Assent see s. 108; s. 57 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 57 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

**58** **Written allegations.** **E+W**

- (1) A person may make a written allegation to the Standards Board for England that a member or co-opted member (or former member or co-opted member) of a relevant authority in England has failed, or may have failed, to comply with the authority's code of conduct.
- (2) If the Standards Board for England considers that a written allegation under subsection (1) should be investigated, it must refer the case to one of its ethical standards officers.
- (3) If the Standards Board for England considers that a written allegation under subsection (1) should not be investigated, it must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.

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**Commencement Information**

**I54** S. 58 wholly in force at 28.7.2001; s. 58 not in force at Royal Assent see s. 108; s. 58 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 58 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

*Functions of ethical standards officers*

**59** **Functions of ethical standards officers.** **E+W**

- (1) The functions of ethical standards officers are to investigate—
  - (a) cases referred to them by the Standards Board for England under section 58(2), and
  - (b) other cases in which any such officer considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in England has failed, or may have failed, to comply with the authority's code of conduct and which have come to the attention of any such officer as a result of an investigation under paragraph (a).

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- (2) The Standards Board for England may make arrangements in relation to the assignment of investigations under this section to particular ethical standards officers.
- (3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.
- (4) Those findings are—
  - (a) that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,
  - (b) that no action needs to be taken in respect of the matters which are the subject of the investigation,
  - (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
  - (d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for England for adjudication by a tribunal falling within section 76(1).
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly an ethical standards officer who reaches a finding under subsection (4)(c) must decide to which of those monitoring officers to refer the matters concerned).

#### Commencement Information

**I55** S. 59 wholly in force at 28.7.2001; s. 59 not in force at Royal Assent see s. 108; s. 59 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 59 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Investigations*

#### **60**    **Conduct of investigations.** E+W

- (1) An ethical standards officer may arrange for any person to assist him in the conduct of any investigation under section 59.
- (2) An ethical standards officer to whom an investigation under section 59 is assigned may—
  - (a) cease the investigation at any stage before its completion, and
  - (b) refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (3) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, an ethical standards officer may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (2)(b), refer the matters which are the subject of the investigation to the monitoring officer of that other relevant authority.

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- (4) An ethical standards officer may not at any time conduct an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the ethical standards officer has been a member or an officer of the authority or a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.
- (5) An ethical standards officer who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an investigation under section 59—
  - (a) must disclose the nature of his interest to the Standards Board for England, and
  - (b) may not take part in any investigation under that section which relates to that matter.
- (6) The validity of any acts of an ethical standards officer are not to be affected by any contravention of subsection (4) or (5) or paragraph 3(2) of Schedule 4 or any breach falling within paragraph 3(3) of that Schedule.

#### Modifications etc. (not altering text)

- C42** S. 60(1)(4)(5) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 2, **Sch. 1**
- C43** S. 60(1) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 2, **Sch. 1**
- C44** S. 60(4) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, **Sch. 2 para. 1**
- C45** S. 60(5) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, **Sch. 2 para. 2**
- C46** S. 60(6) modified (W.) (28.7.2001) by [S.I. 2001/2286](#), art. 3, **Sch. 2 para. 1**
- C47** S. 60(6) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, **Sch. 2 para. 3**

#### Commencement Information

- I56** S. 60 wholly in force at 28.7.2001; s. 60 not in force at Royal Assent see s. 108; s. 60 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), art. 2; s. 60 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 61 Procedure in respect of investigations. **E+W**

- (1) The procedure for conducting an investigation under section 59 is to be such as the ethical standards officer considers appropriate in the circumstances of the case.
- (2) Without prejudice to subsection (1), the ethical standards officer must give any person who is the subject of an investigation under section 59 an opportunity to comment on any allegation that he has failed, or may have failed, to comply with the relevant authority concerned's code of conduct.
- (3) An ethical standards officer may, if he thinks fit, pay to persons who attend or furnish information for the purposes of an investigation under section 59—
  - (a) such sums in respect of the expenses properly incurred by them, and
  - (b) such allowances by way of compensation for the loss of their time, as may be determined by the Secretary of State.
- (4) The carrying out of an investigation under section 59 is not to affect—

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- (a) any action taken by the relevant authority concerned, or
  - (b) any power or duty of the relevant authority concerned to take further action with respect to any matters which are the subject of the investigation.
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England, any reference in subsection (4) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

**Modifications etc. (not altering text)**

**C48** S. 61 modified (W.) (28.7.2001) by [S.I. 2001/2286, art. 2, Sch. 1](#)

**C49** S. 61 applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\), arts. 1\(1\), 2, Sch. 1](#)

**Commencement Information**

**I57** S. 61 wholly in force at 28.7.2001; s. 61 not in force at Royal Assent see s. 108; s. 61 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335, art. 2](#); s. 61 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

**62 Investigations: further provisions. E+W**

- (1) An ethical standards officer, or a person authorised by such an officer, has a right of access at all reasonable times to every document relating to a relevant authority which appears to him necessary for the purpose of conducting an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of the authority.
- (2) An ethical standards officer, or a person authorised by such an officer, may—
  - (a) make such inquiries of any person as he thinks necessary for the purpose of conducting such an investigation,
  - (b) require any person to give him such information or explanation as he thinks necessary for the purpose of conducting such an investigation, and
  - (c) if he thinks necessary, require any person to attend before him in person for the purpose of making inquiries of that person or requiring that person to give any information or explanation.
- (3) Without prejudice to subsections (1) and (2), a relevant authority must provide an ethical standards officer, or a person authorised by such an officer, with every facility and all information which he may reasonably require for the purposes of conducting an investigation under section 59 in relation to a member or co-opted member (or former member or co-opted member) of the authority.
- (4) An ethical standards officer, or a person authorised by such an officer, may under this section require any person—
  - (a) to furnish information concerning communications between the authority concerned and any Government department, or
  - (b) to produce any correspondence or other documents forming part of any such communications.
- (5) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether

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- imposed by any enactment or by any rule of law, is to apply to the disclosure of information in accordance with subsection (4).
- (6) Where subsection (4) applies, the Crown is not to be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (7) Nothing in this section affects—
- (a) the restriction, imposed by section 11(2) of the <sup>M38</sup>Parliamentary Commissioner Act 1967, on the disclosure of information by the Parliamentary Commissioner or his officers,
  - (b) the restriction, imposed by section 32(2) of the <sup>M39</sup>Local Government Act 1974, on the disclosure of information by any members or officers of the Commission for Local Administration in England <sup>F22</sup> ..., or
  - (c) the restriction, imposed by section 15 of the <sup>M40</sup>Health Service Commissioners Act 1993, on the disclosure of information by the Health Service Commissioner for England [<sup>F23</sup> or by his officers] [<sup>F24</sup>], or
  - (d) the restriction imposed by section 26 of the Public Services Ombudsman (Wales) Act 2005.]
- (8) To assist him in any investigation under section 59, an ethical standards officer may obtain advice from any person who in his opinion is qualified to give it and may pay to any such person such fees or allowances as he may determine with the approval of the Secretary of State.
- (9) Subject to subsections (5) and (6), no person may be compelled for the purposes of an investigation under section 59 to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the High Court.
- (10) A person who without reasonable excuse fails to comply with any requirement under subsection (2) or (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

#### Textual Amendments

- F22** Words in s. 62(7)(b) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 5\(a\)](#), 7; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F23** Words in s. 62(7)(c) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 5\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F24** S. 62(7)(d) and word inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 5\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

#### Modifications etc. (not altering text)

- C50** S. 62(1)-(3)(5)(6)(8)-(11) modified (W.) (28.7.2001) by S.I. 2001/2286, art. 2, [Sch. 1](#)
- C51** S. 62(1)-(3) (5) (6) s. 62(8)-(11) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 2, [Sch. 1](#)
- C52** S. 62(4) modified (W.) (28.7.2001) by S.I. 2001/2286, art. 3, [Sch. 2 para. 2](#)
- C53** S. 62(4) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\)](#), arts. 1(1), 3, [Sch. 2 para. 4](#)

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#### Commencement Information

**I58** S. 62 wholly in force at 28.7.2001; s. 62 not in force at Royal Assent see s. 108; s. 62 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 62 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M38** 1967 c. 13.

**M39** 1974 c. 7.

**M40** 1993 c. 46.

### 63 Restrictions on disclosure of information. E+W

- (1) Information obtained by ethical standards officers under section 61 or 62 must not be disclosed unless one or more of the following conditions is satisfied—
- (a) the disclosure is made for the purposes of enabling the Standards Board for England, an ethical standards officer, [<sup>F25</sup>the Public Services Ombudsman for Wales ] or the president, deputy president or any tribunal of either of the Adjudication Panels to perform their functions under this Part,
  - (b) the person to whom the information relates has consented to its disclosure,
  - (c) the information has previously been disclosed to the public with lawful authority,
  - (d) the disclosure is for the purposes of criminal proceedings in any part of the United Kingdom and the information in question was not obtained under section 62(2),
  - (e) the disclosure is made to the Audit Commission for the purposes of any functions of the Audit Commission or an auditor under the <sup>M41</sup>Audit Commission Act 1998.
  - [<sup>F26</sup>(f) the disclosure is made to the Auditor General for Wales for the purposes of any functions of the Auditor General for Wales or an auditor under Part 2 of the Public Audit (Wales) Act 2004]
- (2) The Secretary of State or a relevant authority in England may give notice in writing to any ethical standards officer with respect to—
- (a) any document or information specified in the notice, or
  - (b) any class of documents or information so specified,
- that, in his or (as the case may be) their opinion, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest.
- (3) Where notice is given under subsection (2) to an ethical standards officer, any document or information specified in the notice, or any document or information of a class so specified, may not be disclosed by the ethical standards officer or any other person.
- (4) A person who discloses information or a document in contravention of subsection (1) is guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

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### Textual Amendments

- F25** Words in s. 63(1)(a) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 6](#); [S.I. 2005/2800, art. 5\(1\)\(3\)](#) (with transitional provisions in [S.I. 2006/362, art. 4](#))
- F26** S. 63(1)(f) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\), s. 73, Sch. 2 para. 54](#); [S.I. 2005/558, art. 2, Sch. 1](#)

### Modifications etc. (not altering text)

- C54** S. 63(1) disclosure powers extended (14.12.2001) by [2001 c. 24, ss. 17, 127\(2\)](#) (with [s. 14\(3\)](#))
- C55** S. 63(1) applied (with modifications) (30.6.2003) by [Local Authorities \(Code of Conduct\) \(Local Determination\) Regulations 2003 \(S.I. 2003/1483\), regs. 1\(1\)\(2\), 4](#)
- C56** S. 63(1) applied (with modifications) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\), arts. 1\(1\), 3, Sch. 2 para. 5](#)
- C57** S. 63(2) modified (W.) (28.7.2001) by [S.I. 2001/2286, art. 3, Sch. 2 para. 3](#)
- C58** S. 63(2) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\), arts. 1\(1\), 3, Sch. 2 para. 6](#)
- C59** S. 63(3) modified (W.) (28.7.2001) by [S.I. 2001/2286, art. 2, Sch. 1](#)
- C60** S. 63(3) applied (with modifications) (W.) (1.4.2006) by [The Public Services Ombudsman for Wales \(Standards Investigations\) Order 2006 \(S.I. 2006/949\), arts. 1\(1\), 2, Sch. 1](#)

### Commencement Information

- I59** S. 63 wholly in force at 28.7.2001; s. 63 not in force at Royal Assent see [s. 108](#); s. 63 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335, art. 2](#); s. 63 in force at 28.7.2001 in so far as not already in force see [s. 108\(4\)-\(6\)](#)

### Marginal Citations

- M41** [1998 c. 18](#).

## Reports etc.

### 64 Reports etc. **E+W**

- (1) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(a) or (b) is appropriate—
- he may produce a report on the outcome of his investigation,
  - he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,
  - he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
  - where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(c) is appropriate he must—
- produce a report on the outcome of his investigation,
  - subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
  - send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.

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- (3) Where an ethical standards officer determines in relation to any case that a finding under section 59(4)(d) is appropriate he must—
  - (a) produce a report on the outcome of his investigation,
  - (b) refer the matters which are the subject of the investigation to the president of the Adjudication Panel for England for adjudication by a tribunal falling within section 76(1), and
  - (c) send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for England.
- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England—
  - (a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and
  - (b) an ethical standards officer who reaches a finding under section 59(4)(c) must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.
- (5) A report under this section may cover more than one investigation under section 59 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (6) An ethical standards officer must—
  - (a) inform any person who is the subject of an investigation under section 59, and
  - (b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,
 of the outcome of the investigation.

#### **Commencement Information**

**160** S. 64 wholly in force at 28.7.2001; s. 64 not in force at Royal Assent see s. 108; s. 64 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 64 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### **65 Interim reports. E+W**

- (1) Where he considers it necessary in the public interest, an ethical standards officer may, before the completion of an investigation under section 59, produce an interim report on that investigation.
- (2) An interim report under this section may cover more than one investigation under section 59 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (3) Where the prima facie evidence is such that it appears to the ethical standards officer producing the interim report—
  - (a) that the person who is the subject of the report has failed to comply with the code of conduct of the relevant authority concerned,



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- (b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and
  - (c) that it is in the public interest to suspend or partially suspend that person immediately,
- the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person’s term of office.
- (4) Where an ethical standards officer produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the president of the Adjudication Panel for England for adjudication by a tribunal falling within section 76(2).
  - (5) A copy of any report under this section must be given—
    - (a) to any person who is the subject of the report,
    - (b) to the monitoring officer of the relevant authority concerned, and
    - (c) to the president of the Adjudication Panel for England.
  - (6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in England—
    - (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
    - (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.
  - (7) In this Part “partially suspended” and cognate expressions are to be construed in accordance with section 83(7) and (8).

#### Commencement Information

**161** S. 65 wholly in force at 28.7.2001; s. 65 not in force at Royal Assent see s. 108; s. 65 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 65 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *References to monitoring officers*

### **66 Matters referred to monitoring officers. E+W**

- (1) The Secretary of State may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section 60(2) or 64(2) are to be dealt with.
- (2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—
  - (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
  - (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,

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- (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),
  - (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
  - (e) the publicity to be given to any such reports, recommendations or action.
- (3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—
- (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
  - (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.
- (4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—
- (a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,
  - (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
  - (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).
- (6) An ethical standards officer who refers any matters to the monitoring officer of a relevant authority under section 60(2) or 64(2) may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

#### Commencement Information

**I62** S. 66 wholly in force at 28.7.2001; s. 66 not in force at Royal Assent see s. 108; s. 66 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 66 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### 67 Consultation with <sup>F27</sup>ombudsmen ]. **E+W**

- (1) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part III of the <sup>M42</sup>Local Government Act 1974, he may consult the appropriate Local Commissioner about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part III of that Act.

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- [<sup>F28</sup>(1A) If, at any stage in the course of conducting an investigation under section 59, an ethical standards officer forms the opinion that the matters which are the subject of the investigation relate partly to a matter which could be the subject of an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005, he may consult the Public Services Ombudsman for Wales about the investigation and, if he considers it necessary, inform any person who made the allegation which gave rise to the investigation of the steps necessary to initiate a complaint under Part 2 of that Act.]
- (2) If, at any stage in the course of conducting an investigation under Part III of [<sup>F29</sup>the Local Government Act 1974 ], a Local Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under section 59 of this Act, he may consult the Standards Board for England about the investigation and, if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under section 58.
- [<sup>F30</sup>(2A) If, at any stage in the course of conducting an investigation under Part 2 of the Public Services Ombudsman (Wales) Act 2005, the Public Services Ombudsman for Wales forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under section 59 of this Act, he may consult the Standards Board for England about the investigation and, if he considers it necessary, inform the person initiating the complaint of the steps necessary to make an allegation under section 58.]
- (3) Consultation under [<sup>F31</sup>any of subsections (1) to (2A)] may relate to any matter concerned with the investigation, including—
- (a) the conduct of the investigation, and
  - (b) the form, content and publication of any report relating to the investigation.
- (4) Nothing in section 32(2) of the <sup>M43</sup>Local Government Act 1974[<sup>F32</sup> , section 26 of the Public Services Ombudsman (Wales) Act 2005] or section 63(1) of this Act shall apply in relation to the disclosure of information in the course of consultation held in accordance with this section.
- (5) In this section “Local Commissioner” has the same meaning as in Part III of the <sup>M44</sup>Local Government Act 1974.

#### Textual Amendments

- F27** Word in s. 67 heading substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 7](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F28** S. 67(1A) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 8\(a\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F29** Words in s. 67(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 8\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F30** S. 67(2A) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 8\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F31** Words in s. 67(3) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 8\(d\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F32** Words in s. 67(4) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 8\(e\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

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#### Commencement Information

**I63** S. 67 wholly in force at 28.7.2001; s. 67 not in force at Royal Assent see s. 108; s. 67 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 67 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M42** 1974 c. 7.

**M43** 1974 c. 7.

**M44** 1974 c. 7.

## CHAPTER III E+W

### INVESTIGATIONS ETC: WALES

#### *[<sup>F33</sup>Public Services Ombudsman for Wales]*

#### Textual Amendments

**F33** Pt. III Ch. III cross-heading preceding s. 68 substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 9](#); [S.I. 2005/2800](#), art. 5(1) (with transitional provisions in [S.I. 2006/362](#), art. 4)

#### 68 [<sup>F34</sup>Public Services Ombudsman for Wales.] E+W

- (1) [<sup>F35</sup>The Public Services Ombudsman for Wales] is to have the functions conferred on him by this Part and such other functions as may be conferred on him by order made by the National Assembly for Wales under this subsection.
- (2) [<sup>F36</sup>The Public Services Ombudsman for Wales]—
- (a) may issue guidance to relevant authorities in Wales (other than police authorities) on matters relating to the conduct of members and co-opted members of such authorities,
  - (b) may issue guidance to relevant authorities in Wales (other than police authorities) in relation to the qualifications or experience which monitoring officers should possess, and
  - (c) may arrange for any such guidance to be made public.
- [<sup>F37</sup>(3) The National Assembly for Wales may by regulations make provision which, for the purpose of any provisions of the Public Services Ombudsman (Wales) Act 2005 specified in the regulations, treats—
- (a) functions of the Public Services Ombudsman for Wales under that Act as including his functions under this Part, or
  - (b) expenses of the Public Services Ombudsman for Wales under that Act as including his expenses under this Part.]
- (4) The provision which may be made by virtue of subsection (3) includes provision which modifies, or applies or reproduces (with or without modifications), any provisions of

<sup>F38</sup>...that Act.

<sup>F39</sup>(5) .....

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### Textual Amendments

- F34** S. 68 heading: word substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 10](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F35** Words in s. 68(1) substituted (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(a\)](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))
- F36** Words in s. 68(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F37** S. 68(3) substituted (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(c\)](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))
- F38** Words in s. 68(4) repealed (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(d\), Sch. 7](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))
- F39** S. 68(5) repealed (12.10.2005 for specified purposes) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 11\(e\), Sch. 7](#); S.I. 2005/2800, art. 4(1)(b)(2) (with art. 4(3))

### Commencement Information

- I64** S. 68 wholly in force at 28.7.2001; s. 68 not in force at Royal Assent see s. 108; s. 68(3)-(5) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948, art. 2](#); s. 68 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## Investigations

### 69 [F40] Investigations by the Public Services Ombudsman for Wales. [E+W]

- (1) [F41]The Public Services Ombudsman for Wales] may investigate—
- cases in which a written allegation is made to him by any person that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority's code of conduct, and
  - other cases in which he considers that a member or co-opted member (or former member or co-opted member) of a relevant authority in Wales has failed, or may have failed, to comply with the authority's code of conduct and which have come to his attention as a result of an investigation under paragraph (a).
- (2) If [F42]the Public Services Ombudsman for Wales] considers that a written allegation under subsection (1)(a) should not be investigated, he must take reasonable steps to give written notification to the person who made the allegation of the decision and the reasons for the decision.
- (3) The purpose of an investigation under this section is to determine which of the findings mentioned in subsection (4) is appropriate.
- (4) Those findings are—
- that there is no evidence of any failure to comply with the code of conduct of the relevant authority concerned,
  - that no action needs to be taken in respect of the matters which are the subject of the investigation,

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- (c) that the matters which are the subject of the investigation should be referred to the monitoring officer of the relevant authority concerned, or
  - (d) that the matters which are the subject of the investigation should be referred to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1).
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, the reference in subsection (4)(c) to the monitoring officer of the relevant authority concerned is to be treated as a reference either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority (and accordingly [<sup>F43</sup>if the Public Services Ombudsman for Wales reaches a finding under subsection (4)(c) he] must decide to which of those monitoring officers to refer the matters concerned).

#### Textual Amendments

- F40** Pt. III Ch. III(crossheading)(investigations) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 12](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F41** Words in s. 69(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(a\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F42** Words in s. 69(2) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F43** Words in s. 69(5) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 13\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

## 70 Investigations: further provisions. E+W

- (1) The National Assembly for Wales may by order make provision with respect to investigations under section 69 (including provision with respect to the obtaining or disclosure of documents or information).
- (2) The provision which may be made by virtue of subsection (1) includes provision which applies or reproduces (with or without modifications)—
  - (a) any provisions of sections 60 to 63, or
  - [<sup>F44</sup>(b) any provisions of sections 13 to 15, 25 to 27 and 32 of the Public Services Ombudsman (Wales) Act 2005.]
- (3) [<sup>F45</sup>The Public Services Ombudsman for Wales] may cease an investigation under section 69 at any stage before its completion.
- (4) Where [<sup>F46</sup>the Public Services Ombudsman for Wales ] ceases an investigation under section 69 before its completion, he may refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned.
- (5) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales, [<sup>F46</sup>the Public Services Ombudsman for Wales ] may, if he thinks it more appropriate than making such a reference as is mentioned in subsection (4), refer the matters which

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are the subject of the investigation to the monitoring officer of that other relevant authority.

#### Textual Amendments

- F44** S. 70(2)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 14\(a\)](#); S.I. 2005/2800, arts. 4(1)(c)(2), 5(1) (with art. 4(3))
- F45** Words in s. 70(3) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 14\(b\)](#); S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4)
- F46** Words in s. 70(4)(5) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 14\(c\)](#); S.I. 2005/2800, art. 5(1) (with transitional provisions in S.I. 2006/362, art. 4); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

#### Commencement Information

- I65** S. 70 wholly in force at 28.7.2001; s. 70 not in force at Royal Assent see s. 108; s. 70(1)(2) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 70 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Reports etc.*

## 71 Reports etc. **E+W**

- (1) Where [<sup>F47</sup> the Public Services Ombudsman for Wales] determines in relation to any case that a finding under section 69(4)(a) or (b) is appropriate—
- he may produce a report on the outcome of his investigation,
  - he may provide a summary of any such report to any newspapers circulating in the area of the relevant authority concerned,
  - he must send to the monitoring officer of the relevant authority concerned a copy of any such report, and
  - where he does not produce any such report, he must inform the monitoring officer of the relevant authority concerned of the outcome of the investigation.
- (2) Where [<sup>F47</sup> the Public Services Ombudsman for Wales] determines in relation to any case that a finding under section 69(4)(c) is appropriate he must—
- produce a report on the outcome of his investigation,
  - subject to subsection (4)(b), refer the matters which are the subject of the investigation to the monitoring officer of the relevant authority concerned, and
  - send a copy of the report to the monitoring officer, and the standards committee, of the relevant authority concerned.
- (3) Where [<sup>F47</sup> the Public Services Ombudsman for Wales] determines in relation to any case that a finding under section 69(4)(d) is appropriate he must—
- produce a report on the outcome of his investigation,
  - refer the matters which are the subject of the investigation to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(1), and
  - send a copy of the report to the monitoring officer of the relevant authority concerned and to the president of the Adjudication Panel for Wales.

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- (4) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—
- (a) the references in subsections (1)(b), (c) and (d), (2)(c) and (3)(c) to the relevant authority concerned are to be treated as including references to that other relevant authority, and
  - (b) [<sup>F48</sup>if the Public Services Ombudsman for Wales reaches a finding under section 69(4)(c) he] must refer the matters concerned either to the monitoring officer of the relevant authority concerned or to the monitoring officer of that other relevant authority.
- (5) A report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (6) [<sup>F49</sup>The Public Services Ombudsman for Wales] must—
- (a) inform any person who is the subject of an investigation under section 69, and
  - (b) take reasonable steps to inform any person who made any allegation which gave rise to the investigation,
- of the outcome of the investigation.

#### Textual Amendments

- F47** Words in s. 71(1)-(3) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 15\(a\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F48** Words in s. 71(4)(b) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 15\(b\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)
- F49** Words in s. 71(6) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 15\(c\)](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

## 72 Interim reports. E+W

- (1) Where he considers it necessary in the public interest, [<sup>F50</sup>the Public Services Ombudsman for Wales] may, before the completion of an investigation under section 69, produce an interim report on that investigation.
- (2) An interim report under this section may cover more than one investigation under section 69 in relation to any members or co-opted members (or former members or co-opted members) of the same relevant authority.
- (3) Where the prima facie evidence is such that it appears to [<sup>F50</sup>the Public Services Ombudsman for Wales]—
  - (a) that the person who is the subject of the interim report has failed to comply with the code of conduct of the relevant authority concerned,
  - (b) that the nature of that failure is such as to be likely to lead to disqualification under section 79(4)(b), and
  - (c) that it is in the public interest to suspend or partially suspend that person immediately,



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the interim report may include a recommendation that that person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.

- (4) Where [<sup>F50</sup>the Public Services Ombudsman for Wales] produces an interim report under this section which contains such a recommendation as is mentioned in subsection (3), he must refer the matters which are the subject of the report to the president of the Adjudication Panel for Wales for adjudication by a tribunal falling within section 76(2).
- (5) A copy of any report under this section must be given—
  - (a) to any person who is the subject of the report,
  - (b) to the monitoring officer of the relevant authority concerned, and
  - (c) to the president of the Adjudication Panel for Wales.
- (6) Where a person is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in Wales—
  - (a) the second reference in subsection (3) to the relevant authority concerned is to be treated as a reference to that other relevant authority, and
  - (b) the reference in subsection (5)(b) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.

#### Textual Amendments

**F50** Words in s. 72(1)(3)(4) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005](#) (c. 10), s. 40, [Sch. 4 para. 16](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)

#### *References to monitoring officers*

### 73 **Matters referred to monitoring officers.** **E+W**

- (1) The National Assembly for Wales may by regulations make provision in relation to the way in which any matters referred to the monitoring officer of a relevant authority under section 70(4) or 71(2) are to be dealt with.
- (2) The provision which may be made by regulations under subsection (1) includes provision for or in connection with—
  - (a) enabling a monitoring officer of a relevant authority to conduct an investigation in respect of any matters referred to him,
  - (b) enabling a monitoring officer of a relevant authority to make a report, or recommendations, to the standards committee of the authority in respect of any matters referred to him,
  - (c) enabling a standards committee of a relevant authority to consider any report or recommendations made to it by a monitoring officer of the authority (including provision with respect to the procedure to be followed by the standards committee),

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- (d) enabling a standards committee of a relevant authority, following its consideration of any such report or recommendations, to take any action prescribed by the regulations (including action against any member or co-opted member (or former member or co-opted member) of the authority who is the subject of any such report or recommendation),
  - (e) the publicity to be given to any such reports, recommendations or action.
- (3) The provision which may be made by virtue of subsection (2)(a) includes provision for or in connection with—
- (a) conferring powers on a monitoring officer of a relevant authority to enable him to conduct an investigation in respect of any matters referred to him,
  - (b) conferring rights (including the right to make representations) on any member or co-opted member (or former member or co-opted member) of a relevant authority who is the subject of any such investigation.
- (4) The provision which may be made by virtue of subsection (2)(d) includes provision for or in connection with—
- (a) enabling a standards committee of a relevant authority to censure a member or co-opted member (or former member or co-opted member) of the authority,
  - (b) enabling a standards committee of a relevant authority to suspend or partially suspend a person from being a member or co-opted member of the authority for a limited period,
  - (c) conferring a right of appeal on a member or co-opted member (or former member or co-opted member) of a relevant authority in respect of any action taken against him.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).
- (6) In its application to police authorities in Wales, subsection (1) has effect as if for the reference to the National Assembly for Wales there were substituted a reference to the Secretary of State.
- (7) Where [<sup>F51</sup>the Public Services Ombudsman for Wales] refers any matters to the monitoring officer of a relevant authority under section 70(4) or 71(2) he may give directions to the monitoring officer as to the way in which those matters are to be dealt with.

#### **Textual Amendments**

**F51** Words in s. 73(7) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 17](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)

#### **Commencement Information**

**I66** S. 73 wholly in force at 28.7.2001; s. 73 not in force at Royal Assent see s. 108; s. 73 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), art. 2; s. 73 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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## 74 Law of defamation. **E+W**

For the purposes of the law of defamation, any statement (whether written or oral) made by [<sup>F52</sup>the Public Services Ombudsman for Wales] in connection with the exercise of his functions under this Part shall be absolutely privileged.

### Textual Amendments

**F52** Words in s. 74 substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 18](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)

## CHAPTER IV **E+W**

### ADJUDICATIONS

#### *Adjudication Panels*

## 75 Adjudication Panels. **E+W**

- (1) There is to be a panel of persons, known as the Adjudication Panel for England, eligible for membership of tribunals drawn from the Panel.
- (2) There is to be a panel of persons, known as the Adjudication Panel for Wales or Panel Dyfarnu Cymru, eligible for membership of tribunals drawn from the Panel.
- (3) The members of the Adjudication Panel for England are to be appointed by the Lord Chancellor.
- (4) The Lord Chancellor—
  - (a) must appoint one of the members of the Adjudication Panel for England as president of the Panel, and
  - (b) may appoint one of those members as deputy president of the Panel.
- (5) The members of the Adjudication Panel for Wales are to be appointed by the National Assembly for Wales on such terms and conditions as it may determine.
- (6) The National Assembly for Wales—
  - (a) must appoint one of the members of the Adjudication Panel for Wales as president of the Panel, and
  - (b) may appoint one of those members as deputy president of the Panel.
- (7) Such members of the Adjudication Panel for England as the Lord Chancellor thinks fit must possess such qualifications as may be determined by the Lord Chancellor.
- (8) Such members of the Adjudication Panel for Wales as the National Assembly for Wales thinks fit must possess such qualifications as may be determined by the National Assembly for Wales.
- (9) The president and deputy president (if any) of the Adjudication Panel for England are to be responsible—
  - (a) for training the members of the Panel,

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- (b) for issuing guidance on how tribunals drawn from the Panel are to reach decisions.
- (10) The president and deputy president (if any) of the Adjudication Panel for Wales are to be responsible—
  - (a) for training the members of the Panel,
  - (b) for issuing guidance on how tribunals drawn from the Panel are to reach decisions.
- (11) The Lord Chancellor must obtain the consent of the Secretary of State before making any appointment under subsection (3) or (4) or any determination under subsection (7).

#### **Commencement Information**

**I67** S. 75 wholly in force at 28.7.2001; s. 75 not in force at Royal Assent see s. 108; s. 75(2)(5)(6)(8) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 75 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 75 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Case tribunals and interim case tribunals*

#### **76 Case tribunals and interim case tribunals. E+W**

- (1) Adjudications in respect of matters referred to the president of the relevant Adjudication Panel under section 64(3) or 71(3) are to be conducted by tribunals (referred to in this Part as case tribunals) consisting of not less than three members of the Panel.
- (2) Adjudications in respect of matters referred to the president of the relevant Adjudication Panel under section 65(4) or 72(4) are to be conducted by tribunals (referred to in this Part as interim case tribunals) consisting of not less than three members of the Panel.
- (3) The president of the relevant Adjudication Panel (or in his absence the deputy president) is to appoint the members of any case tribunal or interim case tribunal.
- (4) A case tribunal drawn from the relevant Adjudication Panel may conduct a single adjudication in relation to two or more matters which are referred to the president of the Panel under section 64(3) or 71(3).
- (5) An interim case tribunal drawn from the relevant Adjudication Panel may conduct a single adjudication in relation to two or more matters which are referred to the president of the Panel under section 65(4) or 72(4).
- (6) The president or the deputy president of the relevant Adjudication Panel may be a member of a case tribunal or interim case tribunal drawn from the Panel.
- (7) A member of the relevant Adjudication Panel may not at any time be a member of a case tribunal or interim case tribunal drawn from the Panel which is to adjudicate on a matter relating to a member or co-opted member (or former member or co-opted member) of a relevant authority if, within the period of five years ending with that time, the member of the Panel has been a member or an officer of the authority or

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- a member of any committee, sub-committee, joint committee or joint sub-committee of the authority.
- (8) A member of the relevant Adjudication Panel who is directly or indirectly interested in any matter which is, or is likely to be, the subject of an adjudication conducted by a case tribunal or interim case tribunal—
- (a) must disclose the nature of his interest to the president or deputy president of that Panel, and
  - (b) may not be a member of a case tribunal or interim case tribunal which conducts an adjudication in relation to that matter.
- (9) Where there is no deputy president of the relevant Adjudication Panel, the reference in subsections (3) and (8) to the deputy president is to be treated as a reference to such member of the Panel as the [<sup>F53</sup>Lord Chief Justice] or (as the case may require) the National Assembly for Wales may specify.
- [<sup>F54</sup>(9A) The Lord Chief Justice must consult the Lord Chancellor before specifying a member of the Panel in accordance with subsection (9).]
- (10) A person who is a member of an interim case tribunal which, as a result of an investigation under section 59 or 69, conducts an adjudication in relation to any person may not be a member of a case tribunal which, on the conclusion of that investigation, subsequently conducts an adjudication in relation to that person.
- (11) The Lord Chancellor may issue guidance with respect to the composition of case tribunals or interim case tribunals drawn from the Adjudication Panel for England.
- (12) The Lord Chancellor must [<sup>F55</sup>consult the Lord Chief Justice and] obtain the consent of the Secretary of State before issuing any guidance under subsection (11).
- (13) The National Assembly for Wales may issue guidance with respect to the composition of case tribunals or interim case tribunals drawn from the Adjudication Panel for Wales.
- (14) The National Assembly for Wales may incur expenditure for the purpose of providing administrative support to the Adjudication Panel for Wales.
- [<sup>F56</sup>(15) The Lord Chief Justice may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.]

#### Textual Amendments

- F53** Words in s. 76(9) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 291(2)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)
- F54** S. 76(9A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 291(3)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)
- F55** Words in s. 76(12) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 291(4)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)
- F56** S. 76(15) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 4 para. 291(5)**; S.I. 2006/1014, art. 2(a), Sch. 1 para. 11(x)

#### Commencement Information

- I68** S. 76 wholly in force at 28.7.2001; s. 76 not in force at Royal Assent see s. 108; s. 76(13) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 76 in force at 19.12.2000 in relation to

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England and to police authorities in Wales by [S.I. 2000/3335](#), **art. 2**; s. 76 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Adjudications*

#### 77 **Adjudications.** **E+W**

- (1) A person who is the subject of an adjudication conducted by a case tribunal or interim case tribunal may appear before the tribunal in person or be represented by—
  - (a) counsel or a solicitor, or
  - (b) any other person whom he desires to represent him.
- (2) The Secretary of State may by regulations make such provision as appears to him to be necessary or expedient with respect to adjudications by case tribunals or interim case tribunals drawn from the Adjudication Panel for England.
- (3) The president of the Adjudication Panel for England may, after consultation with the Secretary of State, give directions as to the practice and procedure to be followed by tribunals drawn from the Panel.
- (4) The National Assembly for Wales may by regulations make such provision as appears to it to be necessary or expedient with respect to adjudications by case tribunals or interim case tribunals drawn from the Adjudication Panel for Wales.
- (5) The president of the Adjudication Panel for Wales may, after consultation with the National Assembly for Wales, give directions as to the practice and procedure to be followed by tribunals drawn from the Panel.
- (6) Regulations under this section may, in particular, include provision—
  - (a) for requiring persons to attend adjudications to give evidence and produce documents and for authorising the administration of oaths to witnesses,
  - (b) for requiring persons to furnish further particulars,
  - (c) for prescribing the procedure to be followed in adjudications, including provision as to the persons entitled to appear and to be heard on behalf of persons giving evidence,
  - (d) for the award of costs or expenses (including provision with respect to interest and provision with respect to the enforcement of any such award),
  - (e) for taxing or otherwise settling any such costs or expenses (and for enabling such costs to be taxed in a county court),
  - (f) for the registration and proof of decisions and awards of tribunals.
- (7) A person who without reasonable excuse fails to comply with any requirement imposed by virtue of subsection (6)(a) or (b) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form.

#### **Commencement Information**

**I69** S. 77 wholly in force at 28.7.2001; s. 77 not in force at Royal Assent see s. 108; s. 77(4)(6) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), **art. 2**; s. 77 in force at 19.12.2000 in relation to

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England and to police authorities in Wales by S.I. 2000/3335, art. 2; s. 77 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 78 Decisions of interim case tribunals. **E+W**

- (1) An interim case tribunal which adjudicates on any matters which are the subject of an interim report must reach one of the following decisions—
  - (a) that the person to whom the recommendation mentioned in section 65(3) or 72(3) relates should not be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned,
  - (b) that that person should be suspended or partially suspended from being a member or co-opted member of the authority concerned for a period which does not exceed six months or (if shorter) the remainder of the person's term of office.
- (2) An interim case tribunal must give notice of its decision to the standards committee of the relevant authority concerned.
- (3) If the decision of an interim case tribunal is that a person should be suspended or partially suspended from being a member or co-opted member of the relevant authority concerned—
  - (a) the notice must give details of the suspension or partial suspension and specify the date on which the suspension or partial suspension is to begin, and
  - (b) the relevant authority must suspend or partially suspend the person in accordance with the notice.
- (4) A decision of an interim case tribunal under this section shall not prevent an ethical standards officer from continuing with the investigation under section 59 which gave rise to the interim report concerned and producing a report under section 64, or a further interim report under section 65, in respect of any matters which are the subject of the investigation.
- (5) A decision of an interim case tribunal under this section shall not prevent [<sup>F57</sup> the Public Services Ombudsman for Wales] from continuing with the investigation under section 69 which gave rise to the interim report concerned and producing a report under section 71, or a further interim report under section 72, in respect of any matters which are the subject of the investigation.
- (6) The suspension or partial suspension of any person under this section shall not extend beyond the day on which a notice under section 79 is given to the standards committee of the relevant authority concerned with respect to that person.
- (7) A copy of any notice under this section must be given—
  - (a) to any person who is the subject of the notice, and
  - (b) to the monitoring officer of the relevant authority concerned.
- (8) In a case where section 65(6) or 72(6) applies, the references in subsections (2) and (7)(b) to the relevant authority concerned are to be treated as including a reference to the relevant authority of which the person concerned was formerly a member or co-opted member.
- (9) An interim case tribunal must take reasonable steps to inform any person who made any allegation which gave rise to the investigation under section 59 or 69 of its decision under this section.

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- (10) A person who is suspended or partially suspended under this section may appeal to the High Court—
- (a) against the suspension or partial suspension, or
  - (b) against the length of the suspension or partial suspension.

#### Textual Amendments

**F57** Words in s. 78(5) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 19](#); [S.I. 2005/2800](#), art. 5(1)(3) (with transitional provisions in [S.I. 2006/362](#), art. 4)

#### Commencement Information

**I70** S. 78 wholly in force at 28.7.2001; s. 78 not in force at Royal Assent see s. 108; s. 78 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), art. 2; s. 78 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 79 Decisions of case tribunals. **E+W**

- (1) A case tribunal which adjudicates on any matter must decide whether or not any person to which that matter relates has failed to comply with the code of conduct of the relevant authority concerned.
- (2) Where a case tribunal decides that a person has not failed to comply with the code of conduct of the relevant authority concerned, it must give notice to that effect to the standards committee of the relevant authority concerned.
- (3) Where a case tribunal decides that a person has failed to comply with the code of conduct of the relevant authority concerned, it must decide whether the nature of the failure is such that the person should be suspended or disqualified in accordance with subsection (4).
- (4) A person may be—
  - (a) suspended or partially suspended from being a member or co-opted member of the relevant authority concerned, or
  - (b) disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority.
- (5) Where a case tribunal makes such a decision as is mentioned in subsection (4)(a), it must decide the period for which the person should be suspended or partially suspended (which must not exceed one year or, if shorter, the remainder of the person's term of office).
- (6) Where a case tribunal makes such a decision as is mentioned in subsection (4)(b), it must decide the period for which the person should be disqualified (which must not exceed five years).
- (7) Where a case tribunal decides that a person has failed to comply with the code of conduct of the relevant authority concerned but should not be suspended or disqualified as mentioned in subsection (4), it must give notice to the standards committee of the relevant authority concerned—
  - (a) stating that the person has failed to comply with that code of conduct, and
  - (b) specifying the details of that failure.



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- (8) Where a case tribunal decides that a person has failed to comply with the code of conduct of the relevant authority concerned and should be suspended or partially suspended as mentioned in subsection (4)(a), it must give notice to the standards committee of the relevant authority concerned—
- (a) stating that the person has failed to comply with that code of conduct,
  - (b) specifying the details of that failure, and
  - (c) stating that the person must be suspended or partially suspended by the relevant authority concerned for the period, and in the way, which the tribunal has decided.
- (9) A relevant authority must comply with any notice given to its standards committee under subsection (8).
- (10) Where a case tribunal decides that a person has failed to comply with the code of conduct of the relevant authority concerned and should be disqualified as mentioned in subsection (4)(b), it must give notice to the standards committee of the relevant authority concerned—
- (a) stating that the person has failed to comply with that code of conduct,
  - (b) specifying the details of that failure, and
  - (c) stating that the person is disqualified for being, or becoming (whether by election or otherwise), a member of that or any other relevant authority for the period which the tribunal has decided.
- (11) The effect of a notice given to the standards committee of a relevant authority under subsection (10) is to disqualify the person concerned as mentioned in subsection (10)(c).
- (12) A copy of any notice under this section—
- (a) must be given—
    - (i) to the Standards Board for England, where the relevant authority concerned is in England,
    - (ii) to [<sup>F58</sup>the Public Services Ombudsman for Wales], where the relevant authority concerned is in Wales,
  - (b) must be given to any person who is the subject of the decision to which the notice relates, and
  - (c) must be published in one or more newspapers circulating in the area of the relevant authority concerned.
- (13) Where the person concerned is no longer a member or co-opted member of the relevant authority concerned but is a member or co-opted member of another relevant authority in the same country (that is to say, England or Wales)—
- (a) a copy of any notice under subsection (2), (7) or (10) must also be given to the standards committee of that other relevant authority,
  - (b) the references in subsections (4)(a) and (8)(c) to the relevant authority concerned are to be treated as references to that other relevant authority,
  - (c) the duty to give notice to the standards committee of the relevant authority concerned under subsection (8) is to be treated as a duty—
    - (i) to give that notice to the standards committee of that other relevant authority, and
    - (ii) to give a copy of that notice to the standards committee of the relevant authority concerned,

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- (d) the reference in subsection (12)(c) to the relevant authority concerned is to be treated as including a reference to that other relevant authority.
- (14) A case tribunal must take reasonable steps to inform any person who made any allegation which gave rise to the adjudication of the decision of the case tribunal under this section.
- (15) Where a case tribunal decides under this section that a person has failed to comply with the code of conduct of the relevant authority concerned, that person may appeal to the High Court against that decision, or any other decision under this section which relates to him.

#### Textual Amendments

**F58** Words in s. 79(12)(a)(ii) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005](#) (c. 10), s. 40, [Sch. 4 para. 20](#); S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

#### Commencement Information

**I71** S. 79 wholly in force at 28.7.2001; s. 79 not in force at Royal Assent see s. 108; s. 79 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), art. 2; s. 79 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 80 Recommendations by case tribunals. E+W

- (1) A case tribunal which has adjudicated on any matter may make recommendations to a relevant authority about any matters relating to—
- (a) the exercise of the authority’s functions,
  - (b) the authority’s code of conduct, or
  - (c) the authority’s standards committee.
- (2) A case tribunal must send a copy of any recommendations it makes under subsection (1) to the relevant person.
- (3) A relevant authority to whom recommendations are made under subsection (1) must consider the recommendations and, within a period of three months beginning with the day on which the recommendations are received, prepare a report for the relevant person giving details of what action the authority have taken or are proposing to take as a result of the recommendations.
- (4) A relevant authority’s function of considering a report under subsection (3) may be discharged only by the authority or by the standards committee of that authority (and accordingly, in the case of a relevant authority to which section 101 of the <sup>M45</sup>Local Government Act 1972 applies, is not to be a function to which that section applies).
- (5) If the relevant person is not satisfied with the action the relevant authority have taken or propose to take in relation to the recommendations, the relevant person may require the authority to publish a statement giving details of the recommendations made by the tribunal and of the authority’s reasons for not fully implementing the recommendations.
- (6) In this section “the relevant person” means—

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- (a) the Standards Board for England where the relevant authority concerned is in England,
- (b) [<sup>F59</sup>the Public Services Ombudsman for Wales] where the relevant authority concerned is in Wales.

#### Textual Amendments

**F59** Words in s. 80(6)(b) substituted (1.4.2006) by **Public Services Ombudsman (Wales) Act 2005 (c. 10)**, s. 40, **Sch. 4 para. 21**; S.I. 2005/2800, art. 5(1)(3) (with transitional provisions in S.I. 2006/362, art. 4)

#### Commencement Information

**I72** S. 80 wholly in force at 28.7.2001; s. 80 not in force at Royal Assent see s. 108; s. 80 in force at 19.12.2000 in relation to England and to police authorities in Wales by **S.I. 2000/3335, art. 2**; s. 80 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M45** 1972 c. 70.

## CHAPTER V **E+W**

### SUPPLEMENTARY

#### *Disclosure and registration of members' interests etc.*

#### **81 Disclosure and registration of members' interests etc. **E+W****

- (1) The monitoring officer of each relevant authority must establish and maintain a register of interests of the members and co-opted members of the authority.
- (2) The mandatory provisions of the model code applicable to each relevant authority (“the mandatory provisions”) must require the members and co-opted members of each authority to register in that authority’s register maintained under subsection (1) such financial and other interests as are specified in the mandatory provisions.
- (3) The mandatory provisions must also—
  - (a) require any member or co-opted member of a relevant authority who has an interest specified in the mandatory provisions under subsection (2) to disclose that interest before taking part in any business of the authority relating to that interest,
  - (b) make provision for preventing or restricting the participation of a member or co-opted member of a relevant authority in any business of the authority to which an interest disclosed under paragraph (a) relates.
- (4) Any participation by a member or co-opted member of a relevant authority in any business which is prohibited by the mandatory provisions is not a failure to comply with the authority’s code of conduct if the member or co-opted member has acted in accordance with a dispensation from the prohibition granted by the authority’s standards committee in accordance with regulations made under subsection (5).
- (5) The Secretary of State may prescribe in regulations the circumstances in which standards committees may grant dispensations under subsection (4).

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- (6) A relevant authority must ensure that copies of the register for the time being maintained by their monitoring officer under this section are available at an office of the authority for inspection by members of the public at all reasonable hours.
- (7) As soon as practicable after the establishment by their monitoring officer of a register under this section, a relevant authority must—
- (a) publish in one or more newspapers circulating in their area a notice which—
    - (i) states that copies of the register are available at an office of the authority for inspection by members of the public at all reasonable hours, and
    - (ii) specifies the address of that office, and
  - (b) [<sup>F60</sup> if it is a relevant authority in England or a police authority in Wales,] inform the Standards Board for England that copies of the register are so available.
  - [<sup>F61</sup>(c) if it is a relevant authority in Wales, inform the Public Services Ombudsman for Wales that copies of the register are so available.]
- (8) In its application to standards committees of relevant authorities in Wales (other than police authorities), subsection (5) has effect as if for the reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

#### Textual Amendments

**F60** Words in s. 81(7)(b) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 22\(a\)](#); [S.I. 2005/2800](#), art. 5(1) (with transitional provisions in [S.I. 2006/362](#), art. 4)

**F61** S. 81(7)(c) inserted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 22\(b\)](#); [S.I. 2005/2800](#), art. 5(1) (with transitional provisions in [S.I. 2006/362](#), art. 4)

#### Commencement Information

**I73** S. 81 wholly in force at 28.7.2001; s. 81 not in force at Royal Assent see s. 108; s. 81(5)(8) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 81 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 81 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Code of conduct for local government employees*

## 82 Code of conduct for local government employees. E+W

- (1) The Secretary of State may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in England and police authorities in Wales.
- (2) The National Assembly for Wales may by order issue a code as regards the conduct which is expected of qualifying employees of relevant authorities in Wales (other than police authorities).
- (3) The power under subsection (1) or (2) to issue a code includes power—
  - (a) to issue a separate code for council managers (within the meaning of Part II of this Act), and
  - (b) to revise any code which has been issued.

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- (4) Before making an order under this section, the Secretary of State must consult—
- (a) such representatives of relevant authorities in England, and of employees of such authorities, as he considers appropriate,
  - (b) the Audit Commission, and
  - (c) the Commission for Local Administration in England.
- (5) Before making an order under this section so far as it relates to police authorities in Wales, the Secretary of State must consult—
- (a) such representatives of police authorities in Wales, and of employees of such authorities, as he considers appropriate,
  - [<sup>F62</sup>(aa) the Auditor General for Wales,]
  - (b) [<sup>F63</sup>the Public Services Ombudsman for Wales ], and
  - (c) the National Assembly for Wales.
- (6) Before making an order under this section, the National Assembly for Wales must consult—
- (a) such representatives of relevant authorities in Wales, and of employees of such authorities, as it considers appropriate,
  - (b) the [<sup>F64</sup>Auditor General for Wales], and
  - (c) [<sup>F65</sup>the Public Services Ombudsman for Wales ].
- (7) The terms of appointment or conditions of employment of every qualifying employee of a relevant authority (whether appointed or employed before or after the commencement of this section) are to be deemed to incorporate any code for the time being under this section which is applicable.
- (8) In this section “qualifying employee”, in relation to a relevant authority, means an employee of the authority other than an employee falling within any description of employee specified in regulations under this subsection.
- (9) The power to make regulations under subsection (8) is to be exercised—
- (a) in relation to England, by the Secretary of State, and
  - (b) in relation to Wales, by the National Assembly for Wales.

#### Textual Amendments

- F62** S. 82(5)(aa) inserted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 55(1)(2); S.I. 2005/558, art. 2, Sch. 1
- F63** Words in s. 82(5)(b) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 23](#); S.I. 2005/2800, arts. 4(1)(d)(2), 5(1) (with art. 4(3))
- F64** Words in s. 82(6)(b) substituted (1.4.2005) by [Public Audit \(Wales\) Act 2004 \(c. 23\)](#), s. 73, Sch. 2 para. 55(1)(3); S.I. 2005/558, art. 2, Sch. 1
- F65** Words in s. 82(6)(c) substituted (12.10.2005 for specified purposes, 1.4.2006 in so far as not already in force) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\)](#), s. 40, [Sch. 4 para. 23](#); S.I. 2005/2800, arts. 4(1)(d)(2), 5(1) (with art. 4(3))

#### Commencement Information

- I74** S. 82 wholly in force at 28.7.2001; s. 82 not in force at Royal Assent see s. 108; s. 82(2)(3)(6)(8)(9) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 82 in force at 19.12.2000 in relation

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to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); s. 82 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *<sup>F66</sup>Delegation by monitoring officers*

#### **Textual Amendments**

**F66** S. 82A and cross-heading inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [ss. 113\(2\)](#), [128\(2\)\(d\)](#)

## **82A Monitoring officers: delegation of functions under Part 3** E+W

- (1) This section applies to functions of a monitoring officer of a relevant authority in relation to matters referred to him under section 60(2), 64(2), 70(4) or 71(2).
- (2) Where the monitoring officer considers that in a particular case he himself ought not to perform particular functions to which this section applies, those particular functions shall in that case be performed personally by a person nominated for the purpose by the monitoring officer.
- (3) Where a deputy nominated by the monitoring officer under section 5(7) of the Local Government and Housing Act 1989 (nomination of member of monitoring officer's staff to act as deputy when monitoring officer absent or ill) considers that in a particular case he himself ought not to perform particular functions—
  - (a) to which this section applies, and
  - (b) which, by reason of the absence or illness of the monitoring officer, would but for this subsection fall to be performed by the deputy,
 those particular functions shall, while the monitoring officer continues to be unable to act by reason of absence or illness, be performed in that case personally by a person nominated for the purpose by the deputy.
- (4) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is an officer of the relevant authority, the authority shall provide the officer with such staff, accommodation and other resources as are, in the officer's opinion, sufficient to allow those functions to be performed.
- (5) Where functions to which this section applies are to be performed by a person nominated under subsection (2) or (3) who is not an officer of the relevant authority, the authority shall—
  - (a) pay the person a reasonable fee for performing the functions,
  - (b) reimburse expenses properly incurred by the person in performing the functions, but only to the extent that the amount of the expenses is reasonable, and
  - (c) provide the person with such staff, accommodation and other resources as are reasonably necessary for the person's performance of the functions.]

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## Interpretation

### 83 Interpretation of Part III. **E+W**

(1) In this Part—

“the Audit Commission” means the Audit Commission for Local Authorities and the National Health Service in England and Wales,

“case tribunal” has the meaning given by section 76(1),

“code of conduct” means a code of conduct under section 51,

“co-opted member” has the meaning given by section 49(7),

“elected mayor” and “elected executive member” have the meaning given by section 39(1) and (4),

“ethical standards officer” means a person appointed under section 57(5) (a),

“executive” is to be construed in accordance with section 11,

“executive arrangements” has the meaning given by section 10,

“executive leader” has the meaning given by section 11(3)(a),

“interim case tribunal” has the meaning given by section 76(2),

<sup>F67</sup>  
...

“model code of conduct” is to be construed in accordance with section 50(1) and (2),

“police authority” means a police authority established under section 3 of the <sup>M46</sup>Police Act 1996,

“the relevant Adjudication Panel” means—

(a) in relation to matters referred or to be referred by an ethical standards officer, the Adjudication Panel for England,

(b) in relation to matters referred or to be referred by [<sup>F68</sup>the Public Services Ombudsman for Wales], the Adjudication Panel for Wales,

“relevant authority” has the meaning given by section 49(6).

(2) Any reference in this Part to a committee of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to a committee of an executive of the authority.

(3) Any reference in this Part to a member of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to an elected mayor or elected executive member of the authority.

(4) Any reference in this Part to a member of a relevant authority, in the case of the Greater London Authority, is a reference to the Mayor of London or a London Assembly member.

(5) Any reference in this Part to a joint committee or joint sub-committee of a relevant authority is a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.

(6) Any reference in this Part to a failure to comply with a relevant authority’s code of conduct includes a reference to a failure to comply with the mandatory provisions which apply to the members or co-opted members of the authority by virtue of section 51(5)(b).

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- (7) Any reference in this Part to a person being partially suspended from being a member or co-opted member of a relevant authority includes a reference to a person being prevented from exercising particular functions or having particular responsibilities as such a member or co-opted member.
- (8) The reference in subsection (7) to particular functions or particular responsibilities as a member of a relevant authority, in the case of a relevant authority to which Part II of this Act applies, includes a reference to particular functions or particular responsibilities as a member of an executive of the authority.
- (9) A person who is suspended under this Part from being a member of a relevant authority shall also be suspended from being a member of any committee, sub-committee, joint committee or joint sub-committee of the authority, but this subsection does not apply to a person who is partially suspended under this Part.
- (10) A person who is suspended under this Part from being a member of a relevant authority to which Part II of this Act applies shall also be suspended, if he is a member of an executive of the authority, from being such a member; but this subsection does not apply to a person who is partially suspended under this Part.
- (11) A person who is disqualified under this Part for being or becoming a member of a relevant authority shall also be disqualified—
  - (a) for being or becoming a member of any committee, sub-committee, joint committee or joint sub-committee of the authority, and
  - (b) if the authority is one to which Part II of this Act applies, for being or becoming a member of an executive of the authority.
- (12) Any function which by virtue of this Part is exercisable by or in relation to the monitoring officer of a relevant authority which is a parish council is to be exercisable by or in relation to the monitoring officer of the district council or unitary county council which are the responsible authority in relation to the parish council; and any reference in this Part to the monitoring officer of a relevant authority which is a parish council is to be construed accordingly.
- (13) Any function which by virtue of this Part is exercisable by or in relation to the monitoring officer of a relevant authority which is a community council is to be exercisable by or in relation to the monitoring officer of the county council or county borough council in whose area the community council is situated; and any reference in this Part to the monitoring officer of a relevant authority which is a community council is to be construed accordingly.
- (14) Any functions which are conferred by virtue of this Part on a relevant authority to which Part II of this Act applies are not to be the responsibility of an executive of the authority under executive arrangements.
- (15) Any functions which are conferred on the Greater London Authority by virtue of this Part are to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (16) Subsections (12) and (13) of section 55 are to apply for the purposes of subsection (12) as they apply for the purposes of that section.



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#### Textual Amendments

- F67** Words in s. 83(1) repealed (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 24\(a\), 7; S.I. 2005/2800, art. 5\(1\)](#) (with transitional provisions in [S.I. 2006/362, art. 4](#))
- F68** Words in s. 83(1) substituted (1.4.2006) by [Public Services Ombudsman \(Wales\) Act 2005 \(c. 10\), s. 40, Sch. 4 para. 24\(b\); S.I. 2005/2800, art. 5\(1\)](#) (with transitional provisions in [S.I. 2006/362, art. 4](#))

#### Commencement Information

- I75** S. 83 wholly in force at 28.7.2001; s. 83 not in force at Royal Assent see s. 108; s. 83(1)-(3)(5)-(14) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948, art. 2](#); s. 83 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335, art. 2](#); s. 83 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

- M46** [1996 c. 16.](#)

## PART IV **E+W**

### ELECTIONS

#### **84** Meaning of “local authority” and “principal council” in Part IV. **E+W**

- (1) In relation to England—  
“local authority” means a principal council or a parish council,  
“principal council” means a county council, a district council or a London borough council.
- (2) In relation to Wales—  
“local authority” means a principal council or a community council,  
“principal council” means a county council or a county borough council.
- (3) This section applies for the purposes of this Part.

#### **85** Options for elections. **E+W**

- (1) For the purposes of this Part the three options for the scheme for the ordinary elections of councillors of a principal council are those set out in this section.
- (2) The first option is for a scheme under which—  
(a) the term of office of councillors is four years,  
(b) the elections are held in a given year and every fourth year after it,  
(c) all the councillors are elected in each year in which the elections are held, and  
(d) the councillors retire together.
- (3) The second option is for a scheme under which—  
(a) the term of office of councillors is four years,  
(b) the elections are held in a given year and every second year after it,  
(c) one half (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and

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- (d) one half (or as nearly as may be) of the councillors retire in each year in which the elections are held.
- (4) The third option is for a scheme under which—
- (a) the term of office of councillors is four years,
  - (b) the elections are held in a given year and every year after it other than every third year after it,
  - (c) one third (or as nearly as may be) of the councillors are elected in each year in which the elections are held, and
  - (d) one third (or as nearly as may be) of the councillors retire in each year in which the elections are held.

## 86 Power to specify a scheme for elections. E+W

- (1) The Secretary of State may by order make provision to secure that the scheme for the ordinary elections of councillors of any specified council is the scheme under such of the options set out in section 85 as is specified in the order.
- (2) A council is specified if it is—
  - (a) a principal council (or one of the principal councils) specified by name in the order, or
  - (b) a principal council falling within any description of principal council specified in the order.
- (3) An order may make provision in relation to a council if the scheme specified in the order is different from the scheme which prevails (whether by virtue of an earlier order under this section or otherwise) for the ordinary elections of its councillors.
- (4) An order may include provision specifying the years in which the ordinary elections are to be held.
- (5) In a case where the specified scheme is that under the second or third option, an order may include provision for identifying which councillors are to retire in a particular year, and such provision may include—
  - (a) provision for identifying the electoral divisions or wards affected,
  - (b) provision for identifying the councillors affected within particular electoral divisions or wards.
- (6) Provision under subsection (5) may include—
  - (a) provision allowing the Secretary of State to direct councils to propose methods (complying with any guidance he may issue) for identifying electoral divisions, wards or councillors,
  - (b) provision allowing him to give directions as to the methods to be adopted (whether those proposed or otherwise).
- (7) An order may include provision designed to secure the transition from a prevailing scheme to the one specified in the order, and such provision may include—
  - (a) provision to secure the retirement of existing councillors at times different from those applying under a prevailing scheme,
  - (b) in a case where the specified scheme is that under the second or third option, provision for the initial election of all the councillors, for the retirement of some of them before the end of the normal term of four years, and for identifying which of them are so to retire.

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**87 Power to change years in which elections held. E+W**

- (1) The Secretary of State may by order make provision which changes the years in which the ordinary elections of councillors of any specified local authority are to be held but which does not change the scheme which prevails (whether by virtue of an order under section 86 or otherwise) for the ordinary elections of those councillors.
- (2) A local authority is specified if it is—
  - (a) a local authority (or one of the local authorities) specified by name in the order, or
  - (b) a local authority falling within any class or description of local authority specified in the order.
- (3) An order may include provision to secure the retirement of existing councillors at times different from those at which they would otherwise retire.

**88 Separate power to make incidental provisions etc. E+W**

- (1) If the Secretary of State makes an order under section 86 or 87 he may make a separate order containing such incidental, consequential, transitional or supplemental provision as could have been included in the order made under that section.
- (2) This applies whether or not the order under section 86 or 87 itself includes incidental, consequential, transitional or supplemental provision.

**89 Consequential electoral changes. E+W**

- (1) The <sup>M47</sup>Local Government Act 1992 is amended as mentioned in subsections (2) and (3).
- (2) In section 14 (changes that may be recommended), after subsection (7) there is inserted—
  - “(8) Notwithstanding section 6(2)(a) of the <sup>M48</sup>Local Government Act 1972, the Local Government Commission may recommend under section 13(1) above that an electoral division of a non-metropolitan county should return more than one councillor.”
- (3) In section 17 (implementation of recommendations by order), after subsection (6) there is inserted—
  - “(7) An order under this section may provide for an electoral division of a non-metropolitan county to return more than one councillor; and in such a case section 6(2)(a) of the Local Government Act 1972 shall not apply.”
- (4) In section 6(2)(a) of the <sup>M49</sup>Local Government Act 1972 (electoral division of non-metropolitan county to return one councillor) after “Act” insert “ and subject to sections 14(8) and 17(7) of the Local Government Act 1992 ”.

**Marginal Citations**

- M47** 1992 c. 19.  
**M48** 1992 c. 19.  
**M49** 1972 c. 70.

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## PART V **E+W+S**

### MISCELLANEOUS

#### *Surcharge etc.*

#### 90 **Surcharge etc.** **E+W**

- (1) The <sup>M50</sup>Audit Commission Act 1998 is amended as follows.
- (2) In section 17 (declaration that item of account is unlawful)—
  - (a) subsection (1)(b),
  - (b) in subsection (2), the words “subject to subsection (3)” and paragraphs (a) and (b), and
  - (c) subsections (3), (5)(b), (7) and (8),
 are omitted.
- (3) Section 18 (recovery of amount not accounted for etc.) is omitted.

#### Commencement Information

**I76** S. 90 partly in force; s. 90 not in force at Royal Assent, see s. 108(3)(7); s. 90 in force (E.) at 27.7.2002 by S.I. 2002/1718, art. 2(a); s. 90 in force (W.) in relation to police authorities by S.I. 2002/1718, art. 2(a)

#### Marginal Citations

**M50** 1998 c. 18.

#### 91 **Advisory notices.** **E+W**

- (1) After section 19 of the <sup>M51</sup>Audit Commission Act 1998 there is inserted—

#### **“19A Other bodies: advisory notices.**

- (1) The auditor for the time being of the accounts of a body subject to audit other than a health service body may issue a notice under this section (“an advisory notice”) if he has reason to believe that the body or an officer of the body—
  - (a) is about to make or has made a decision which involves or would involve the body incurring expenditure which is unlawful,
  - (b) is about to take or has begun to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency, or
  - (c) is about to enter an item of account, the entry of which is unlawful.
- (2) For the purposes of this section and section 19B the actions of—
  - (a) a committee or sub-committee of a body, or
  - (b) any other person (other than an officer) authorised to act on behalf of the body,
 are to be treated as the actions of the body itself.

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- (3) An advisory notice is a notice which—
- (a) is addressed to the body or officer concerned,
  - (b) specifies the paragraph of subsection (1) which is relevant and the decision, course of action or item of account to which the notice relates,
  - (c) specifies that the notice will take effect on the day a copy of the notice is served on the person to whom it is addressed, and
  - (d) requires the body or officer before—
    - (i) making or implementing the decision,
    - (ii) taking or continuing to take the course of action, or
    - (iii) entering the item of account,(as the case may be) to give the person who is for the time being the auditor of the accounts of the body not less than the specified number of days' notice in writing of the intention of the body or officer to do that thing,

and in paragraph (d) the reference to the specified number is to such number not exceeding 21 as is specified in the notice.

(4) Where two or more auditors are appointed in relation to the accounts of any body—

    - (a) the power to issue an advisory notice may be exercised by the auditors acting jointly or by such one of them as they may determine, and
    - (b) in relation to such a notice, references in subsections (5) and (6) to the auditor are references to the auditor or auditors by whom the notice is issued.

(5) A copy of an advisory notice—

    - (a) shall be served on the body to which, or to an officer of which, it is addressed,
    - (b) in the case of a notice addressed to an officer, shall also be served on him, and
    - (c) may be served on such other person or persons as the auditor considers appropriate.

(6) The auditor shall serve a statement of his reasons for the belief referred to in subsection (1) on the body concerned, and on any officer on whom a copy of the notice was served under subsection (5)(b), before the end of the period of 7 days beginning on the day on which a copy of the notice was served on the person to whom it is addressed.

(7) Where this section requires any document to be served on an officer of a body, it shall be served on him by addressing it to him and delivering it to him or leaving it at, or sending it by post to, the office at which he is employed.

(8) An advisory notice may at any time be withdrawn by the person who is for the time being the auditor in relation to the accounts of the body to which, or to an officer of which, the notice was addressed, and the auditor shall give notice in writing of the withdrawal to any body or person on whom a copy of the advisory notice was served under subsection (5).

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### **19B Effect of an advisory notice.**

- (1) While an advisory notice has effect, it is not lawful for the body concerned or any officer of that body—
  - (a) where the notice relates to a decision, to make or implement the decision,
  - (b) where the notice relates to a course of action, to take or continue to take the course of action, or
  - (c) where the notice relates to an item of account, to enter the item of account,
 unless and until the conditions set out in subsection (2) are satisfied.
- (2) The conditions are—
  - (a) that the body has considered, in the light of the advisory notice and the statement under section 19A(6), the consequences of doing the thing mentioned in the paragraph of subsection (1) which is relevant,
  - (b) that the body or officer has given the person who is for the time being the auditor of the accounts of the body the period of notice in writing required by the advisory notice under section 19A(3)(d), and
  - (c) that that period has expired.
- (3) An advisory notice takes effect on the day on which a copy of the notice is served on the person to whom it is addressed, and ceases to have effect—
  - (a) where a statement of reasons is not served in accordance with subsection (6) of section 19A, at the end of the period specified in that subsection, or
  - (b) when it is withdrawn under section 19A(8).
- (4) Any expenses reasonably incurred by an auditor in or in connection with the issue of an advisory notice are recoverable by him from the body concerned.
- (5) In this section “the body concerned”, in relation to an advisory notice, means the body to which, or to any officer of which, the notice is addressed.

#### **19C.—(1) Where—**

- (a) before an advisory notice is served, a body enters into a contract to dispose of or acquire an interest in land, and
- (b) before the disposal or acquisition is completed, an advisory notice takes effect as a result of which it is unlawful for the body to complete the disposal or acquisition,

the existence of the advisory notice does not prejudice any remedy in damages which may be available to any person by reason of the body’s failure to complete the contract.

- (2) No action lies against an auditor in respect of loss or damage alleged to have been caused by reason of the issue of an advisory notice which was issued in good faith.”
- (2) Sections 20 to 23 of the <sup>M52</sup>Audit Commission Act 1998 (prohibition orders) cease to have effect.

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#### Commencement Information

**I77** S. 91 partly in force; s. 91 not in force at Royal Assent see s. 108; s. 91 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2

#### Marginal Citations

**M51** 1998 c. 18.  
**M52** 1998 c. 18.

### *Maladministration etc.*

## 92 Payments in cases of maladministration etc. **E+W**

- (1) Where a relevant authority consider—
  - (a) that action taken by or on behalf of the authority in the exercise of their functions amounts to, or may amount to, maladministration, and
  - (b) that a person has been, or may have been, adversely affected by that action, the authority may, if they think appropriate, make a payment to, or provide some other benefit for, that person.
- (2) Any function which is conferred on the Greater London Authority under this section is to be exercisable by the Mayor of London and the London Assembly acting jointly on behalf of the Authority.
- (3) In this section—
  - “action” includes failure to act,
  - “relevant authority” has the same meaning as in Part III of this Act.

#### Modifications etc. (not altering text)

**C61** S. 92: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), Sch. 1

#### Commencement Information

**I78** S. 92 wholly in force at 28.7.2001; s. 92 not in force at Royal Assent see s. 108; s. 92 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; s. 92 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Welfare services*

## 93 Grants for welfare services. **E+W**

- (1) The Secretary of State may, with the consent of the Treasury, pay grants to local authorities in England towards expenditure incurred by them
  - [<sup>F69</sup>(a) in providing, or contributing to the provision of, such welfare services as may be determined by the Secretary of State, or
  - (b) in connection with any such welfare services.]

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- (2) The National Assembly for Wales may pay grants to local authorities in Wales towards expenditure incurred by them
- [<sup>F70</sup>(a) in providing, or contributing to the provision of, such welfare services as may be determined by the Assembly, or
- (b) in connection with any such welfare services.]
- (3) The amount of any grants under this section and the manner of their payment are to be such as may be determined by the Secretary of State or the Assembly (as the case may be).
- (4) Grants under this section may be paid—
- (a) to all local authorities,
- (b) to particular local authorities, or
- (c) to particular descriptions of local authority (including descriptions framed by reference to authorities in particular areas).
- (5) Grants under this section may be paid on such terms and conditions as the Secretary of State or, as the case may be, the Assembly may determine; and nothing in subsection (6) affects the generality of this subsection.
- (6) Those terms and conditions may include provision as to the circumstances in which the whole or any part of a grant under this section must be repaid to the Secretary of State or the Assembly.
- [<sup>F71</sup>(6A) Before making any determination under subsection (3) or (5) the Secretary of State must obtain the consent of the Treasury.]
- (7) A local authority must supply the Secretary of State or, as the case may be, the Assembly with such information as he or it may require for the purposes of this section.
- (8) A local authority must have regard to any guidance for the time being issued by the Secretary of State or, as the case may be, the Assembly with respect to the administration and application of grants under this section which are paid to them.
- (9) A local authority must comply with any directions for the time being given by the Secretary of State or, as the case may be, the Assembly with respect to the administration and application of grants under this section which are paid to them.
- (10) Any determination, guidance or directions under this section may make different provision in relation to different local authorities or descriptions of local authority (including descriptions framed by reference to authorities in particular areas).
- (11) Before making any determination, issuing any guidance or giving any directions under this section relating to all local authorities in England or Wales or any description of such authorities, the Secretary of State or (as the case may be) the National Assembly for Wales must consult—
- (a) such local authorities or representatives of local authorities as appear to him or it to be appropriate,
- (b) such recipients, or representatives of recipients, of welfare services as appear to him or it to be appropriate, and
- (c) such providers, or representatives of providers, of welfare services as appear to him or it to be appropriate.
- (12) In this section—



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- “local authority” means—
- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly,
  - (b) in relation to Wales, a county council or a county borough council,
- “welfare services” includes services which provide support, assistance, advice or counselling to individuals with particular needs.

#### Textual Amendments

- F69** S. 93(1)(a)(b) substituted (7.11.2002) for words by 2002 c. 38, ss. 136(2), 148(1) (with Sch. 4 paras. 6-8)
- F70** S. 93(2)(a)(b) substituted (7.11.2002) for word by 2002 c. 38, ss. 136(3), 148(1) (with Sch. 4 paras. 6-8)
- F71** S. 93(6A) inserted (7.11.2002) by 2002 c. 38, ss. 136(4), 148(1) (with Sch. 4 paras. 6-8)

#### Commencement Information

- I79** S. 93 partly in force; s. 93 not in force at Royal Assent see s. 108; s. 93 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; s. 93(2) in force (W.) at 30.6.2002 by S.I. 2002/1359, art. 2(a); S. 93(3)-(12) in force (W.) at 30.6.2002 insofar as they relate to local authorities in Wales by S.I. 2002/1359, art. 2(b)

## 94 Disclosure of information. **E+W+S**

- (1) Subsection (3) applies to information which is held by, or by a person providing services to, the Secretary of State and which relates to income support [<sup>F72</sup>, income-based jobseeker’s allowance or state pension credit ].
- (2) Subsection (3) also applies to information relating to housing benefit which is held by—
  - (a) an authority administering housing benefit, or
  - (b) a person authorised to exercise any function of such an authority relating to housing benefit.
- (3) Information to which this subsection applies may be supplied to—
  - (a) a local authority to which any grant is or will be paid under section 93, or
  - (b) a person authorised to exercise any function of that authority relating to that grant,for purposes connected with the application of that grant towards expenditure falling within section 93(1) or (2) (as the case may be).
- (4) Information which is supplied to an authority or other person under subsection (3) may be supplied by the authority or person to a person who provides qualifying welfare services for purposes connected with the provision of those services.
- (5) For the purposes of this section a person is to be regarded as providing qualifying welfare services if—
  - (a) he provides welfare services,
  - (b) a local authority contribute or will contribute to the expenditure incurred by him in providing those services, and

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- (c) that contribution is or will be derived (in whole or in part) from any grant which is or will be paid to the authority under section 93.
- (6) In this section “local authority” and “welfare services” have the same meaning as in section 93.
- (7) The Secretary of State may by order make such modifications of this section as he considers necessary or expedient in consequence of any provision corresponding to section 93 which is enacted by the Scottish Parliament.

#### Textual Amendments

**F72** Words in s. 94(1) substituted (2.7.2002 for specified purposes, 6.10.2003 in so far as not already in force) by [State Pension Credit Act 2002 \(c. 16\)](#), s. 22(3), [Sch. 2 para. 43](#); S.I. 2002/1691, art. 2(1)S.I. 2003/1766, art. 2(a)

#### Modifications etc. (not altering text)

**C62** S. 94 functions made exercisable concurrently (with effect in accordance with art. 25(1) of the amending S.I.) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 2, [25\(2\)\(xxxiv\)](#) (with art. 35)

**C63** S. 94 functions made exercisable concurrently (with effect in accordance with art. 25(1) of the amending S.I.) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 2, [25\(2\)\(xxxiv\)](#) (with art. 35)

#### Commencement Information

**I80** S. 94 not in force at Royal Assent see s. 108; s. 94 in force (E.) at 1.8.2001 by [S.I. 2001/2684](#), [art. 2](#)

## 95 Unauthorised disclosure of information. **E+W+S**

- (1) The persons to whom this section applies are—
  - (a) any person (“the recipient”) to whom information is supplied by virtue of section 94,
  - (b) any person who is or has been a director, member of the committee of management, manager, secretary or other similar officer of the recipient, and
  - (c) any person who is or has been employed by the recipient.
- (2) A person to whom this section applies is guilty of an offence if he discloses without lawful authority any information which is supplied by virtue of section 94 and which relates to a particular person.
- (3) It is not an offence under this section—
  - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it, or
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (4) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
  - (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or

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- (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (5) A person guilty of an offence under this section is to be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both, or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (6) For the purposes of this section a disclosure is to be regarded as made with lawful authority if, and only if, it is made—
- (a) in accordance with section 94(4) or any other enactment,
  - (b) in accordance with an order of a court,
  - (c) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or tribunal, or
  - (d) with the consent of the appropriate person (as defined in section 123(10) of the <sup>M53</sup>Social Security Administration Act 1992).
- (7) The Secretary of State may by order make such modifications of this section as he considers necessary or expedient in consequence of any provision corresponding to section 93 which is enacted by the Scottish Parliament.

**Commencement Information**

**I81** S. 95 partly in force; s. 95 not in force at Royal Assent see s. 108; s. 95 in force (E.) at 1.8.2001 by S.I. 2001/2684, art. 2

**Marginal Citations**

**M53** 1992 c. 5.

PROSPECTIVE

**96 Housing benefit. E+W+S**

- (1) Section 130 of the <sup>M54</sup>Social Security Contributions and Benefits Act 1992 (housing benefit) is amended as follows.
- (2) At the end of subsection (2) there is inserted—
  - “but this subsection is subject to subsection (2A).
  - (2A) Except to the extent that regulations otherwise provide, payments in respect of services which provide support, assistance, advice or counselling to individuals with particular needs are not “payments in respect of a dwelling” for the purposes of subsection (1).”
- (3) After subsection (4) there is inserted—
  - “(4A) Regulations under subsection (2A) above may make provision with respect to particular areas, particular authorities or particular descriptions of authority.”

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### Marginal Citations

M54 1992 c. 4.

## Access to information

### 97 Background papers. **E+W**

(1) In section 100D of the <sup>M55</sup>Local Government Act 1972 (inspection of background papers) for subsection (1) there is substituted—

“(1) Subject, in the case of section 100C(1), to subsection (2) below, if and so long as copies of the whole or part of a report for a meeting of a principal council are required by section 100B(1) or 100C(1) above to be open to inspection by members of the public—

- (a) those copies shall each include a copy of a list, compiled by the proper officer, of the background papers for the report or the part of the report, and
- (b) at least one copy of each of the documents included in that list shall also be open to inspection at the offices of the council.”

(2) In subsection (2) the words “of the list, or” are omitted.

### Commencement Information

**I82** S. 97 wholly in force at 28.7.2001; s. 97 not in force at Royal Assent see s. 108; s. 97 in force at 1.10.2000 in relation to England only by S.I. 2000/2187, arts. 1(3), 3; s. 97 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### Marginal Citations

M55 1972 c. 70.

### 98 Meetings and documents: notice etc. **E+W**

(1) In section 100K of the <sup>M56</sup>Local Government Act 1972 (interpretation and application of Part VA), after subsection (2) there is inserted—

“(3) The Secretary of State may by order amend sections 100A(6)(a) and 100B(3) and (4)(a) above so as to substitute for each reference to three clear days such greater number of days as may be specified in the order.

(4) Any statutory instrument containing an order under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(2) In Schedule 12 to that Act (meetings and proceedings of local authorities), after paragraph 4 there is inserted—

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- “4A (1) The Secretary of State may by order amend paragraph 4(2) above so as to substitute for the reference to three clear days such greater number of days as may be specified in the order.
- (2) Any statutory instrument containing an order under sub-paragraph (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**I83** S. 98 wholly in force at 28.7.2001; s. 98 not in force at Royal Assent see s. 108; s. 98 in force at 1.10.2000 in relation to England only by S.I. 2000/2187, arts. 1(3), 3; s. 98 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M56** 1972 c. 70.

### *Allowances and pensions*

## **99 Allowances and pensions for certain local authority members. E+W**

- (1) The provision which may be made by regulations under section 7 of the <sup>M57</sup>Superannuation Act 1972 (superannuation of persons employed in local government service etc) includes provision for or in connection with the provision of pensions, allowances or gratuities to or in respect of such members of a local authority as may be prescribed by the regulations.
- (2) In subsection (1) “local authority” has the same meaning as in Part II of this Act.
- (3) Section 18 of the <sup>M58</sup>Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local authority members) is amended as follows.
- (4) At the beginning of subsection (1) there is inserted “ Subject to subsection (1A), ” and after that subsection there is inserted—
- “(1A) In relation to a district council, county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b).”
- (5) After subsection (2) there is inserted—
- “(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members.”
- (6) In subsection (3), for “and (2)” there is substituted “ to (2A) ”.
- (7) After subsection (3) there is inserted—

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“(3A) Regulations under this section may make provision for or in connection with—

- (a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,
- (b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.

(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.

(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.

(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of county councils and county borough councils in Wales.

(3E) Regulations under subsection (3B) above may include provision—

- (a) with respect to the number of persons who may or must be appointed to the panel of a council,
- (b) with respect to the persons who may or must be appointed to the panel of a council,
- (c) for or in connection with the appointment by councils of joint panels.

(3F) Regulations under subsection (3C) may include provision—

- (a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,
- (b) with respect to the persons who may or must be appointed to such a panel.

(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—

- (a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,
- (b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,
- (c) which permits different recommendations to be made in relation to different councils or descriptions of council.”

(8) In subsection (4), for the word “and” at the end of paragraph (b) there is substituted—

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“(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and”.

(9) After subsection (5) there is inserted—

“(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough council shall have regard to any guidance for the time being issued by the Secretary of State.”

#### Commencement Information

**I84** S. 99 wholly in force at 28.7.2001; s. 99 not in force at Royal Assent see s. 108(4); s. 99(1)-(3)(5)-(9) with the exception of so much of subsection (3) as relates to subsection (4) in force at 19.2.2001 in relation to England only by [S.I. 2001/415](#), [art. 2\(b\)](#); s. 99 in force at 28.7.2001 in so far as not already in force see s. 108(4)

#### Marginal Citations

**M57** 1972 c. 11.  
**M58** 1989 c. 42.

## 100 Power to make provision about allowances. **E+W**

- (1) The Secretary of State may by regulations make provision with respect to—
  - (a) allowances payable to members of a parish council,
  - (b) travelling and subsistence allowances payable to members of such relevant authorities as may be prescribed,
  - (c) allowances payable to members of such relevant authorities as may be prescribed for attending conferences or meetings,
  - (d) the reimbursement of expenses incurred by members of such relevant authorities as may be prescribed.
- (2) For the purposes of this section a member of a committee or sub-committee of a relevant authority is to be treated as a member of the authority.
- (3) The provision which may be made under subsection (1)(b) includes provision with respect to allowances in respect of travel by bicycle or by any other non-motorised form of transport.
- (4) The provision which may be made under this section includes provision which amends or repeals any provisions of sections 173 to 178 of the <sup>M59</sup>Local Government Act 1972.
- (5) Before making any regulations under this section, the Secretary of State must consult such representatives of local government and such other persons (if any) as he considers appropriate.
- (6) In this section—

“prescribed” means prescribed by regulations made by the Secretary of State,

“relevant authority” means—

  - (a) a body specified in section 21(1) of the <sup>M60</sup>Local Government and Housing Act 1989,

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- (b) a body on which a body falling within paragraph (a) is represented,
- (c) a parish council.

(7) In its application to Wales this section has effect as if—

- (a) for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales,
- (b) for any reference to a parish council there were substituted a reference to a community council.

#### Commencement Information

**I85** S. 100 wholly in force at 19.2.2001; s. 100 not in force at Royal Assent see s. 108; s. 100 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 100 in force at 19.2.2001 in relation to England only by [S.I. 2001/415](#), [art. 2\(b\)](#)

#### Marginal Citations

**M59** 1972 c. 70.  
**M60** 1989 c. 42.

### *Indemnification of members and officers of relevant authorities*

#### **101 Indemnification of members and officers of relevant authorities. E+W**

- (1) The Secretary of State may by order make provision for or in connection with conferring power on relevant authorities in England and police authorities in Wales to provide indemnities to some or all of their members and officers.
- (2) The National Assembly for Wales may by order make provision for or in connection with conferring power on relevant authorities in Wales (other than police authorities) to provide indemnities to some or all of their members and officers.
- (3) An order under this section may apply—
  - (a) to all relevant authorities, or
  - (b) to any particular description of relevant authority.
- (4) Before making an order under this section, the Secretary of State or (as the case may be) the National Assembly for Wales must consult—
  - (a) such representatives of relevant authorities,
  - (b) such representatives of employees of relevant authorities, and
  - (c) such other persons,
 as he or it considers appropriate.
- (5) In this section—
 

“member”, in relation to a relevant authority, includes—

  - (i) a member of any committee or sub-committee of the authority, or
  - (ii) a person who is a member of, and represents the authority on, any joint committee or sub-committee,

“police authority” and “relevant authority” have the same meaning as in Part III of this Act.



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### Commencement Information

- I86** S. 101 wholly in force at 28.7.2001; s. 101 not in force at Royal Assent see s. 108; s. 101(2)-(5) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 101 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Social services functions*

## 102 Social services functions. **E+W**

<sup>F73</sup>(1) . . . . .

(2) Section 6(5) of [<sup>F74</sup>the Local Authority Social Services Act 1970] (social services director not to discharge non-social services functions without approval of Secretary of State) ceases to have effect.

(3) After section 1 of that Act there is inserted the following section—

### “1A Meaning of “social services functions”.

For the purposes of this Act the social services functions of a local authority are—

- (a) their functions under the enactments specified in the first column of Schedule 1 to this Act (being the functions which are described in general terms in the second column of that Schedule), and
- (b) such other of their functions as the Secretary of State may designate by an order made under this section.”

### Textual Amendments

- F73** S. 102(1) repealed (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 55(5)(a), 67(7)(e), Sch. 5 Pt. 4; S.I. 2005/394, art. 2(2)(f); S.I. 2006/885, art. 2(e)
- F74** Words in s. 102(2) substituted (1.4.2005 for E., 1.4.2006 for W.) by Children Act 2004 (c. 31), ss. 55(5)(b), 67(7)(e); S.I. 2005/394, art. 2(2)(f); S.I. 2006/885, art. 2(e)

### Commencement Information

- I87** S. 102 wholly in force at 28.7.2001; s. 102 not in force at Royal Assent see s. 108; s. 102 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(a); s. 102 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Recoupment by local authorities of cost of providing day care*

## 103 Recoupment by local authorities of cost of providing day care. **E+W**

(1) In subsection (3) of section 29 of the <sup>M61</sup>Children Act 1989 (recoupment of cost of providing services etc.), after “subsection (1)” there is inserted “ for a service provided under section 17 or section 18(1) or (5) ”.

(2) After that subsection there is inserted—

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“(3A) No person shall be liable to pay any charge under subsection (1) for a service provided under section 18(2) or (6) at any time when he is in receipt of income support under Part VII of the Social Security Contributions and Benefits Act 1992 or of an income-based jobseeker’s allowance.”

#### Commencement Information

**I88** S. 103 wholly in force at 28.7.2001; s. 103 not in force at Royal Assent see s. 108; s. 103 in force at 25.8.2000 in relation to England by S.I. 2000/2420, art. 2; s. 103 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M61** 1989 c. 41.

### *Prohibition on promoting homosexuality: bullying*

<sup>F75</sup>**104** **Prohibition on promoting homosexuality: bullying.** **E+W**

#### Textual Amendments

**F75** S. 104 repealed (18.11.2003) by Local Government Act 2003 (c. 26), s. 128(2)(f)(ix), Sch. 8 Pt. 1

## **PART VI** **U.K.**

### SUPPLEMENTAL

**105** **Orders and regulations.** **E+W+S**

- (1) Any power to make an order or regulations under this Act is exercisable by statutory instrument.
- (2) Any order or regulations under this Act—
  - (a) may contain such incidental, consequential, transitional or supplemental provision or savings as the Secretary of State considers necessary or expedient,
  - (b) may make different provision for different cases, authorities or descriptions of authority.
- (3) The provision which may be made under subsection (2) includes provision modifying any enactment (whenever passed or made).
- (4) The power under subsection (3) to modify an enactment is a power—
  - (a) to apply that enactment with or without modifications,
  - (b) to extend, disapply or amend that enactment, or
  - (c) to repeal or revoke that enactment with or without savings.

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- (5) Subject to subsections (6) and (7), a statutory instrument which contains an order or regulations under this Act is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) [<sup>F76</sup>Subject to subsection (6A),] a statutory instrument which contains an order under section 3(3), 5, 6, 49 or 101, or regulations under section 11(5), 31(1)(b), 32, 44 or 45, is not to be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- [<sup>F77</sup>(6A) Subsection (6) does not apply to a statutory instrument which contains an order under section 3(3), 5 or 6 if the order is made only for the purpose of amending an earlier such order—
- (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.]
- (7) Subsection (5) does not apply to a statutory instrument which contains an order under section 108.
- (8) In this section “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the <sup>M62</sup>Interpretation Act 1978).

#### Textual Amendments

- F76** Words in s. 105(6) inserted (18.11.2003 for E.; 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 3 para. 14\(2\)](#); S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I
- F77** S. 105(6A) inserted (18.11.2003 for E.; 27.11.2003 for W.) by [Local Government Act 2003 \(c. 26\)](#), s. 128(6), [Sch. 3 para. 14\(3\)](#); S.I. 2003/2938, art. 3(a) (with art. 8Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I

#### Marginal Citations

- M62** 1978 c. 30.

## 106 Wales. **E+W**

- (1) In their application to Wales—
- (a) Part II (but not section 44 or paragraph 7 of Schedule 1),
  - (b) Part IV, and
  - (c) section 105(2),
- have effect as if for any reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.
- (2) Section 105(5) to (7) does not apply to an order or regulations under this Act which is made by the National Assembly for Wales.
- (3) Any reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 to an Act which is amended by this Act is to be treated as referring to that Act as amended by this Act.

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- (4) Subsection (3) does not affect the power to make further Orders varying or omitting that reference.

## 107 Minor and consequential amendments and repeals. **U.K.**

- (1) Schedule 5 (minor and consequential amendments) has effect.  
(2) The repeals set out in Schedule 6 have effect.

### Commencement Information

**189** S. 107 partly in force; s. 107 not in force at Royal Assent see s. 108(4); s. 107(2) in force at 1.10.2000 for certain purposes in relation to England only by S.I. 2000/2187, arts. 1(3), 3; s. 107(2) in force at 18.10.2000 for certain purposes in relation to England only by S.I. 2000/2836, arts. 1(3), 2(c); s. 107 in force at 26.10.2000 for certain purposes by S.I. 2000/2849, arts. 1(3), 2(h); s. 107(2) in force at 9.4.2001 with application to Wales only by S.I. 2001/1471, art. 2; s. 107 in force at 28.7.2001 for certain purposes see s. 108(4)-(6)

## 108 Commencement. **E+W+S**

- (1) This section and sections 105, 106 and 109 come into force on the day on which this Act is passed.
- (2) The following provisions of this Act—
- (a) Part IV,
  - (b) section 104, and
  - (c) in Schedule 6, the repeal of paragraph 63 of Schedule 37 to the <sup>M63</sup>Education Act 1996,
- come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (3) The following provisions of this Act—
- (a) section 90, 91, and 93 to 96,
  - (b) in Schedule 5, paragraphs 8, 12, 13, 15, 25, 26 and 34,
  - (c) in Schedule 6, the repeal—
    - (i) in section 80(1)(e) of the <sup>M64</sup>Local Government Act 1972,
    - (ii) of sections 94 to 98 and 105 of that Act,
    - (iii) in section 265A(1)(b) of that Act,
    - (iv) of the provisions of the <sup>M65</sup>Local Government Act 1974, the <sup>M66</sup>Local Government Act 1985, the <sup>M67</sup>Transport Act 1985 and the <sup>M68</sup>Financial Services Act 1986 specified in Schedule 6,
    - (v) of sections 19, 31 and 32(1) of the <sup>M69</sup>Local Government and Housing Act 1989,
    - (vi) in Schedule 11 to that Act,
    - (vii) of the provisions of the <sup>M70</sup>Local Government Finance Act 1992, the <sup>M71</sup>Local Government (Wales) Act 1994, the <sup>M72</sup>Police and Magistrates' Courts Act 1994, the Environment Act 1995, the <sup>M73</sup>Police <sup>M74</sup> Act 1996, the Police Act 1997, the <sup>M75</sup>Audit <sup>M76</sup>Commission Act 1998 and the <sup>M77</sup>Greater London Authority Act 1999 specified in Schedule 6,

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come into force on such day as the Secretary of State may by order appoint.

- (4) Subject to subsections (5) and (6), the remaining provisions of this Act come into force at the end of the period of 12 months beginning with the day on which this Act is passed.
- (5) The Secretary of State may by order provide—
- (a) for paragraphs 17 and 18 of Schedule 4 to come into force before the time appointed by subsection (4),
  - (b) for paragraph 28 of Schedule 5 to come into force before the time appointed by that subsection,
  - (c) for any of the provisions of Part III of this Act so far as they relate to police authorities in Wales to come into force before the time appointed by that subsection, or
  - (d) for any of the other provisions mentioned in that subsection to come into force in relation to England before the time appointed by that subsection.
- (6) The National Assembly for Wales may by order provide—
- (a) for paragraph 28 of Schedule 5 to come into force before the time appointed by subsection (4), or
  - (b) for any of the other provisions mentioned in that subsection to come into force in relation to Wales before the time appointed by that subsection.
- (7) An order under subsection (3), (5) or (6) may appoint different days for different purposes.

#### Subordinate Legislation Made

- P1** S. 108(3)(7) power partly exercised (W.): 1.8.2001 appointed for specified provisions by [S.I. 2001/2684, art. 2](#)  
S. 108(3)(7) power partly exercised (W.): 30.6.2002 appointed for specified provisions by [S.I. 2002/1359, art. 2](#)  
S. 108(3)(7) power partly exercised: 27.7.2002 appointed for specified provisions by [S.I. 2002/1718, art. 2](#)
- P2** S. 108(5)(7) power partly exercised: different dates appointed for specified provisions by [S.I. 2000/2187, arts. 2, 3](#)  
S. 108(5)(7) power partly exercised: 18.10.2000 appointed for specified provisions by [S.I. 2000/2836, art. 2](#)  
S. 108(5)(7) power partly exercised: 26.10.2000 appointed for specified provisions by [S.I. 2000/2849, art. 2](#)  
S. 108(5)(7) power partly exercised: 19.12.2000 appointed for specified provisions and purposes by [S.I. 2000/3335, art. 2](#)  
S. 108(5)(7) power partly exercised: 19.2.2001 appointed for specified provisions by [S.I. 2001/415, art. 2](#)
- P3** S. 108(5)(d) power partly exercised: 25.8.2000 appointed for specified provisions by [S.I. 2000/2420, art. 2](#)
- P4** S. 108(6) power partly exercised: 1.11.2000 appointed for specified provisions by [S.I. 2000/2948, art. 2](#)  
S. 108(6) power partly exercised: 9.4.2001 appointed for specified provisions by [S.I. 2001/1471, art. 2](#)

#### Marginal Citations

- M63** 1996 c. 56.  
**M64** 1972 c. 70.

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**M65** 1974 c. 7.  
**M66** 1985 c. 51.  
**M67** 1985 c. 67.  
**M68** 1986 c. 60.  
**M69** 1989 c. 42.  
**M70** 1992 c. 14.  
**M71** 1994 c. 19.  
**M72** 1994 c. 29.  
**M73** 1995 c. 25.  
**M74** 1996 c. 16.  
**M75** 1997 c. 50.  
**M76** 1998 c. 18.  
**M77** 1999 c. 29.

**109 Short title and extent. U.K.**

- (1) This Act may be cited as the Local Government Act 2000.
- (2) Subject to subsections (3) and (4), this Act extends to England and Wales only.
- (3) Sections 94 to 96, 105 and 108 extend also to Scotland.
- (4) This section, paragraphs 17 and 18 of Schedule 4 and paragraph 28 of Schedule 5 extend also to Scotland and Northern Ireland.

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## SCHEDULES

### SCHEDULE 1 **E+W**

Section 23.

#### EXECUTIVE ARRANGEMENTS: FURTHER PROVISION

##### *Mayor and cabinet executives*

- 1 (1) This paragraph applies in relation to executive arrangements by a local authority which provide for a mayor and cabinet executive.
- (2) Subject to section 11(8), the executive arrangements must include provision which enables the elected mayor to determine the number of councillors who may be appointed to the executive under section 11(2)(b).
- (3) The executive arrangements must include provision which requires the elected mayor to appoint one of the members of the executive to be his deputy (referred to in this paragraph as the deputy mayor).
- (4) Subject to sub-paragraph (5), the deputy mayor, unless he resigns as deputy mayor or ceases to be a member of the authority, is to hold office until the end of the term of office of the elected mayor.
- (5) The elected mayor may, if he thinks fit, remove the deputy mayor from office.
- (6) Where a vacancy occurs in the office of deputy mayor, the elected mayor must appoint another person in his place.
- (7) If for any reason the elected mayor is unable to act or the office of elected mayor is vacant, the deputy mayor must act in his place.
- (8) If for any reason—
- (a) the elected mayor is unable to act or the office of elected mayor is vacant, and
  - (b) the deputy mayor is unable to act or the office of deputy mayor is vacant,
- the executive must act in the elected mayor's place or must arrange for a member of the executive to act in his place.
- (9) In the case of a local authority in Wales, the deputy mayor is entitled to the style of “dirprwy faer”.

#### **Commencement Information**

**190** Sch. 1 para. 1 wholly in force at 28.7.2001; Sch. 1 para. 1 not in force at Royal Assent see s. 108; Sch. 1 para. 1 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 1 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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### *Leader and cabinet executives*

- 2 (1) This paragraph applies in relation to executive arrangements by a local authority which provide for a leader and cabinet executive.
- (2) The executive arrangements may include provision with respect to—
- (a) the election and term of office of the executive leader, and
  - (b) the appointment and term of office of members of the executive appointed under section 11(3)(b)(ii).
- (3) Subject to section 11(8), the executive arrangements must include provision which either—
- (a) enables the authority to determine the number of councillors who may be appointed to the executive under section 11(3)(b), or
  - (b) enables the executive leader to determine the number of councillors who may be so appointed.
- (4) Section 101 of the <sup>M78</sup>Local Government Act 1972 does not apply to the function of determining the number of councillors under sub-paragraph (2)(a).

#### **Commencement Information**

**I91** Sch. 1 para. 2 wholly in force at 28.7.2001; Sch. 1 para. 2 not in force at Royal Assent see s. 108; Sch. 1 para. 2 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 2 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### **Marginal Citations**

**M78** 1972 c. 70.

### *Mayor and council manager executives*

- 3 (1) This paragraph applies in relation to executive arrangements by a local authority which provide for a mayor and council manager executive.
- (2) The executive arrangements may include provision with respect to the appointment and term of office of the council manager.
- (3) The executive arrangements must include provision which requires the elected mayor to appoint a member of the authority to be his deputy (referred to in this paragraph as the deputy mayor).
- (4) The deputy mayor may not be—
- (a) the chairman or vice-chairman of the authority, nor
  - (b) a member of an overview and scrutiny committee of the authority.
- (5) Subject to sub-paragraph (6), the deputy mayor, unless he resigns as deputy mayor or ceases to be a member of the authority, is to hold office until the end of the term of office of the elected mayor.
- (6) The elected mayor may, if he thinks fit, remove the deputy mayor from office.
- (7) Where a vacancy occurs in the office of deputy mayor, the elected mayor must appoint another person in his place.



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- (8) If for any reason the elected mayor is unable to act or the office of elected mayor is vacant, the deputy mayor must act in his place.
- (9) If for any reason—
- (a) the elected mayor is unable to act or the office of elected mayor is vacant, and
  - (b) the deputy mayor is unable to act or the office of deputy mayor is vacant,
- the council manager must act in the elected mayor’s place.
- (10) Subject to [<sup>F78</sup>sub-paragraphs (11) and (12A)], the council manager—
- (a) is entitled to attend, and speak at, meetings of the authority or any committee or sub-committee of the authority, but
  - (b) is not entitled to vote at such meetings.
- (11) The council manager is entitled to attend, and speak at, meetings of an overview and scrutiny committee or sub-committee of the authority only if invited or required to do so by the committee or sub-committee.
- (12) The reference in sub-paragraph (10) to a committee or sub-committee of the authority includes a reference to a joint committee on which the authority is represented or a sub-committee of such a committee.
- [<sup>F79</sup>(12A) The council manager of a local authority is entitled to vote at a meeting of a joint committee, or sub-committee of such a committee, if—
- (a) that joint committee or sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of the executive of the local authority; and
  - (b) the council manager is a member of that joint committee or sub-committee.]

(13) The council manager—

    - (a) is to be regarded for the purposes of Part I of the <sup>M79</sup>Local Government and Housing Act 1989 as holding a politically restricted post under the authority,
    - (b) may not also be the person who under section 151 of the <sup>M80</sup>Local Government Act 1972 has responsibility for the administration of the financial affairs of the authority, and
    - (c) may not also be the person who is responsible for performing the duties of the authority’s monitoring officer under section 5 of the <sup>M81</sup>Local Government and Housing Act 1989.

(14) The executive arrangements may include provision for the appointment by the elected mayor of one or more committees to advise the executive.

(15) The membership of any such committee as is mentioned in sub-paragraph (14) need not be determined in accordance with the political balance requirements.

(16) In the case of a local authority in Wales, the deputy mayor is entitled to the style of “dirprwy faer”.

#### Textual Amendments

**F78** Words in Sch. 1 para. 3(10) substituted for words “sub-paragraph (11)” (E.) (18.5.2001) by [S.I. 2001/1517, art. 6\(2\)\(a\)](#)

**F79** Sch. 1 para. 3(12A) inserted (E.) (18.5.2001) by [S.I. 2001/1517, art. 6\(2\)\(b\)](#)

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#### **Commencement Information**

**I92** Sch. 1 para. 3 wholly in force at 28.7.2001; Sch. 1 para. 3 not in force at Royal Assent see s. 108; Sch. 1 para. 3 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 3 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### **Marginal Citations**

**M79** 1989 c. 42.

**M80** 1972 c. 70.

**M81** 1989 c. 42.

### *Procedure*

- 4 Executive arrangements by a local authority may include provision with respect to—
- (a) the quorum, proceedings and location of meetings of the executive,
  - (b) the appointment of committees of the executive, and
  - (c) the quorum, proceedings and location of meetings of committees of the executive.

#### **Commencement Information**

**I93** Sch. 1 para. 4 wholly in force at 28.7.2001; Sch. 1 para. 4 not in force at Royal Assent see s. 108; Sch. 1 para. 4 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 4 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Meetings of executives and executive committees*

- 5 A member of a local authority who is not a member of the authority's executive is entitled to attend, and speak at, a meeting of the executive, or of a committee of the executive, which is held in private only if invited to do so.

#### **Commencement Information**

**I94** Sch. 1 para. 5 wholly in force at 28.7.2001; Sch. 1 para. 5 not in force at Royal Assent see s. 108; Sch. 1 para. 5 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 5 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Mayor's assistant*

- 6
- (1) The Secretary of State may by regulations make provision for or in connection with the appointment of a person (an "assistant") to provide assistance to an elected mayor.
  - (2) Regulations under this paragraph may include provision with respect to the terms and conditions of appointment of an assistant.
  - (3) Nothing in sub-paragraph (2) affects the generality of the power under sub-paragraph (1).

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### Commencement Information

**195** Sch. 1 para. 6 wholly in force at 28.7.2001; Sch. 1 para. 6 not in force at Royal Assent see s. 108; Sch. 1 para. 6 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, arts. 1(3), 2(c); Sch. 1 para. 6 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Overview and scrutiny committees: education functions*

- 7
- (1) In this paragraph “relevant English authority” means a local authority in England which is a local education authority.
  - (2) This paragraph applies to an overview and scrutiny committee of a relevant English authority if the committee’s functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority’s executive.
  - (3) This paragraph also applies to a sub-committee of an overview and scrutiny committee of a relevant English authority if the sub-committee’s functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority’s executive.
  - (4) In the case of a relevant English authority which maintain one or more Church of England schools, an overview and scrutiny committee or sub-committee to which this paragraph applies must include at least one qualifying person.
  - (5) A person is a qualifying person for the purposes of sub-paragraph (4) if he is nominated by the Diocesan Board of Education for any Church of England diocese which falls wholly or partly in the authority concerned’s area.
  - (6) In the case of a relevant English authority which maintain one or more Roman Catholic Church schools, an overview and scrutiny committee or sub-committee to which this paragraph applies must include at least one qualifying person.
  - (7) A person is a qualifying person for the purposes of sub-paragraph (6) if he is nominated by the bishop of any Roman Catholic diocese which falls wholly or partly in the authority concerned’s area.
  - (8) A member of an overview and scrutiny committee or sub-committee appointed by virtue of sub-paragraph (4) or (6) is to be entitled to vote at a meeting of the committee or sub-committee on any question—
    - (a) which relates to any education functions which are the responsibility of the authority concerned’s executive, and
    - (b) which falls to be decided at the meeting.
  - (9) The Secretary of State may by directions to a relevant English authority require any of the authority’s overview and scrutiny committees or sub-committees to which this paragraph applies to include persons who are appointed, in accordance with the directions, as representatives of the persons who appoint foundation governors for the foundation or voluntary schools maintained by the authority which are not Church of England schools or Roman Catholic Church schools but which are specified in the directions.
  - (10) Directions under sub-paragraph (9) may make provision with respect to the voting rights of persons appointed in accordance with such directions.

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### Commencement Information

**I96** Sch. 1 para. 7 wholly in force at 28.7.2001; Sch. 1 para. 7 not in force at Royal Assent see s. 108; Sch. 1 para. 7 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 7 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 8 (1) In this paragraph “relevant Welsh authority” means a local authority in Wales which is a local education authority.
- (2) This paragraph applies to an overview and scrutiny committee of a relevant Welsh authority if the committee’s functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority’s executive.
- (3) This paragraph also applies to a sub-committee of an overview and scrutiny committee of a relevant Welsh authority if the sub-committee’s functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority’s executive.
- (4) An overview and scrutiny committee or sub-committee to which this paragraph applies must include one or more persons appointed as representatives of the persons who appoint foundation governors for the maintained schools which are maintained by the authority concerned and which are specified in directions made by the National Assembly for Wales as schools which have a character connected with a particular religion, or particular religious denomination, specified in the directions.
- (5) Sub-paragraph (4) does not apply if there are no maintained schools which are maintained by the authority concerned and which are specified in directions under that sub-paragraph.
- (6) A member of an overview and scrutiny committee or sub-committee appointed by virtue of sub-paragraph (4) is to be entitled to vote at a meeting of the committee or sub-committee on any question—
- (a) which relates to any education functions which are the responsibility of the authority concerned’s executive, and
  - (b) which falls to be decided at the meeting.
- (7) The National Assembly for Wales may by directions to a relevant Welsh authority require any of the authority’s overview and scrutiny committees or sub-committees to which this paragraph applies to include persons who are appointed, in accordance with the directions, as representatives of the persons who appoint foundation governors for such of the maintained schools which are maintained by the authority concerned and which are not specified in directions under sub-paragraph (4) as may be specified in directions under this sub-paragraph.
- (8) Directions under sub-paragraph (7) may make provision with respect to the voting rights of persons appointed in accordance with such directions.

### Commencement Information

**I97** Sch. 1 para. 8 wholly in force at 28.7.2001; Sch. 1 para. 8 not in force at Royal Assent see s. 108; Sch. 1 para. 8(4)(5)(8) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); Sch. 1 para. 8 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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- 9
- (1) In this paragraph “relevant authority” means a local authority which is a local education authority.
  - (2) This paragraph applies to an overview and scrutiny committee of a relevant authority if the committee’s functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority’s executive.
  - (3) This paragraph also applies to a sub-committee of an overview and scrutiny committee of a relevant authority if the sub-committee’s functions under section 21 relate wholly or partly to any education functions which are the responsibility of the authority’s executive.
  - (4) The Secretary of State may by regulations require an overview and scrutiny committee or sub-committee to which this paragraph applies to include one or more persons elected, in accordance with the regulations, as representatives of parent governors at maintained schools which are maintained by the relevant authority concerned.
  - (5) Regulations under this paragraph may make provision for—
    - (a) the number of persons who are to be elected in the case of any relevant authority,
    - (b) the procedure to be followed in connection with the election of such persons and the persons who are entitled to vote at such an election,
    - (c) the circumstances in which persons are qualified or disqualified for being so elected or for holding office once elected,
    - (d) the term of office of persons so elected and their voting rights,
    - (e) the application to any such committee or sub-committee, with or without any modification, of any enactment (whenever passed or made) relating to committees or (as the case may be) sub-committees of a local authority,
    - (f) such other matters connected with such elections or persons so elected as the Secretary of State considers appropriate.
  - (6) Regulations under this paragraph may also make provision—
    - (a) enabling the Secretary of State to determine, where he considers it expedient to do so in view of the small number of maintained schools which are maintained by a relevant authority, that the requirement imposed on the committee or sub-committee by virtue of sub-paragraph (4) is to have effect as if it referred to representatives of parents of registered pupils (rather than representatives of parent governors) at those schools,
    - (b) for any regulations under this paragraph to have effect, where the Secretary of State makes any such determination, with such modifications as may be prescribed.

#### Commencement Information

**I98** Sch. 1 para. 9 wholly in force at 28.7.2001; Sch. 1 para. 9 not in force at Royal Assent see s. 108; Sch. 1 para. 9 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 9(4)-(6) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); Sch. 1 para. 9 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 10 The following provisions of the <sup>M82</sup>Education Act 1996, namely—

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- (a) section 496 (powers of Secretary of State to require duties under that Act to be exercised reasonably), and
- (b) section 497 (powers of Secretary of State where local education authorities etc. are in default),

are to apply to the performance of any duty imposed on a local authority by virtue of paragraph 7, 8 or 9 as they apply to the performance by a local education authority of a duty imposed by that Act.

#### Commencement Information

**I99** Sch. 1 para. 10 wholly in force at 1.11.2000; Sch. 1 para. 10 not in force at Royal Assent see s. 108; Sch. 1 para. 10 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 10 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### Marginal Citations

**M82** [1996 c. 56](#).

- 11 Except for the expression “local authority”, expressions used in paragraphs 7 to 10 and the <sup>M83</sup>School Standards and Framework Act 1998 have the same meaning in those paragraphs as in that Act.

#### Commencement Information

**I100** Sch. 1 para. 11 wholly in force at 1.11.2000; Sch. 1 para. 11 not in force at Royal Assent see s. 108; Sch. 1 para. 11 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(c\)](#); Sch. 1 para. 11 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### Marginal Citations

**M83** [1998 c. 31](#).

### *<sup>F80</sup>Overview and scrutiny committees: voting rights of co-opted members*

#### Textual Amendments

**F80** Sch. 1 paras. 12-14 and heading inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [ss. 115, 128\(3\)\(a\)](#); [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8Sch.](#))

- 12 (1) A local authority in England may permit a co-opted member of an overview and scrutiny committee of the authority to vote at meetings of the committee.
- (2) Permission under sub-paragraph (1) may only be given in accordance with a scheme made by the local authority.
- (3) A scheme for the purposes of this paragraph may include—
- (a) provision for a maximum or minimum in relation to the number of co-opted members of an overview and scrutiny committee entitled to vote at meetings of the committee, and
  - (b) provision for giving effect to any maximum or minimum established under paragraph (a).

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- (4) The power to make a scheme for the purposes of this paragraph includes power to vary or revoke such a scheme.
- (5) In this paragraph, references to a co-opted member, in relation to an overview and scrutiny committee of a local authority, are to a member of the committee who is not a member of the authority.

*Overview and scrutiny committees: voting rights of co-opted members*

- 13
- (1) The Secretary of State may by regulations make provision about the exercise of the powers under paragraph 12.
  - (2) Regulations under sub-paragraph (1) may, in particular, require schemes for the purposes of paragraph 12 (“voting rights schemes”)—
    - (a) to provide for permission to be given only by means of approving a proposal by the committee concerned;
    - (b) to provide for a proposal for the purposes of the scheme (“a scheme proposal”) to specify—
      - (i) the person to whom the proposal relates,
      - (ii) the questions on which it is proposed he should be entitled to vote, and
      - (iii) the proposed duration of his entitlement to vote,and to include such other provision about the form and content of such a proposal as the regulations may provide;
    - (c) to provide for a scheme proposal to be made only in accordance with a published statement of the policy of the committee concerned about the making of such proposals;
    - (d) to include such provision about the procedure to be followed in relation to the approval of scheme proposals as the regulations may provide.
  - (3) Regulations under sub-paragraph (1) may include provision for the notification to the Secretary of State by local authorities of the making, variation or revocation of voting rights schemes.
  - (4) The Secretary of State may by direction require a local authority to vary a voting rights scheme.

*Overview and scrutiny committees: voting rights of co-opted members*

- 14
- (1) A local authority which makes a scheme for the purposes of paragraph 12 shall, while the scheme is in force, make copies of it available at its principal office at all reasonable hours for inspection by members of the public.
  - (2) If a local authority makes a scheme for the purposes of paragraph 12, or varies or revokes such a scheme, it must as soon as reasonably practicable after doing so publish in one or more newspapers circulating in its area a notice which complies with this paragraph.
  - (3) In the case of the making of a scheme, the notice under sub-paragraph (2) shall—
    - (a) record the making of the scheme,
    - (b) describe what it does,

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- (c) state that copies of it are available for inspection at the principal office of the local authority, and
  - (d) specify—
    - (i) the address of that office, and
    - (ii) the times when the scheme is available for inspection there.
- (4) In the case of the variation of a scheme, the notice under sub-paragraph (2) shall—
- (a) record the variation,
  - (b) describe what it does,
  - (c) state that copies of the scheme as varied are available for inspection at the principal office of the local authority, and
  - (d) specify—
    - (i) the address of that office, and
    - (ii) the times when the scheme is available for inspection there.
- (5) In the case of the revocation of a scheme, the notice under sub-paragraph (2) shall record the revocation.]

## SCHEDULE 2 E+W

Section 42.

### ELECTION OF ELECTED MAYOR

#### Modifications etc. (not altering text)

**C64** Sch. 2 applied by SI 2002/185 Sch. 3 rule 48(1) (as substituted (13.3.2004) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/225\)](#), regs. 1, 2(7), [Sch.](#))

#### *Application*

- 1 This Schedule applies where there are three or more candidates to be an elected mayor of a local authority.

#### Commencement Information

**I101** Sch. 2 para. 1 wholly in force at 28.7.2001; Sch. 2 para. 1 not in force at Royal Assent see s. 108; Sch. 2 para. 1 in force at 28.7.2001 see s. 108(4)-(6)

#### *Candidate with overall majority of first preference votes*

- 2 If one of the candidates to be the elected mayor receives more than half of all the first preference votes given in the election that candidate is to be returned as the elected mayor.



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### Commencement Information

**I102** Sch. 2 para. 2 wholly in force at 28.7.2001; Sch. 2 para. 2 not in force at Royal Assent see s. 108; Sch. 2 para. 2 in force at 28.7.2001 see s. 108(4)-(6)

*No candidate with overall majority of first preference votes*

- 3
- (1) If none of the candidates to be the elected mayor receives more than half of all the first preference votes given in the election the following provisions of this paragraph are to have effect.
  - (2) The two candidates who received the greatest number of first preference votes given in the election remain in the contest.
  - (3) If, by reason of an equality of first preference votes, three or more candidates are qualified to remain in the contest by virtue of sub-paragraph (2), all of them remain in the contest.
  - (4) The other candidates are eliminated from the contest.
  - (5) The number of second preference votes given in the election for each of the candidates remaining in the contest by voters who did not give their first preference vote to any of those candidates is to be ascertained.
  - (6) That number is to be added to the number of first preference votes given for that candidate, to give his total number of preference votes.
  - (7) The person who is to be returned as the elected mayor is that one of the candidates remaining in the contest who has the greatest total number of preference votes.
  - (8) If, by reason of an equality of total number of preference votes, two or more candidates remaining in the contest each have the greatest total number of preference votes, the returning officer is to decide by lots which of them is to be returned as the elected mayor.

### Modifications etc. (not altering text)

**C65** Sch. 2 para. 3(6) applied (1.2.2002) by S.I. 2002/185, reg. 47(1)

**C66** Sch. 2 para. 3(6) applied by SI 2002/185 Sch. 3 rule 47(1) (as substituted (13.3.2004) by The Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2004 (S.I. 2004/225), regs. 1, 2(7), Sch.)

**C67** Sch. 2 para. 3(8) applied by SI 2002/185 Sch. 3 rule 47(4) (as substituted (13.3.2004) by The Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2004 (S.I. 2004/225), regs. 1, 2(7), Sch.)

### Commencement Information

**I103** Sch. 2 para. 3 wholly in force at 28.7.2001; Sch. 2 para. 3 not in force at Royal Assent see s. 108; Sch. 2 para. 3 in force at 28.7.2001 see s. 108(4)-(6)

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## SCHEDULE 3 E+W

Section 46.

### AMENDMENTS TO THE 1972 ACT

- 1 (1) Section 2 of the <sup>M84</sup>Local Government Act 1972 (constitution of principal councils in England) is amended as follows.
- (2) After subsection (2) there is inserted—
- “(2A) Where a council mentioned in subsection (1) or (2) above are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, the council shall consist of an elected mayor, a chairman and councillors.”

#### Commencement Information

**I104** Sch. 3 para. 1 wholly in force at 28.7.2001; Sch. 3 para. 1 not in force at Royal Assent see s. 108; Sch. 3 para. 1 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 1 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M84** 1972 c. 70.

- 2 (1) Section 3 of that Act (chairman of principal council in England) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) A member of the executive of a principal council may not be elected as the chairman of the council.”
- (3) After subsection (4) there is inserted—
- “(4A) Subsection (4) above shall have effect in relation to a district council which are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive as if it provided for the elected mayor of the council to have precedence in the district, but this subsection shall not apply if the executive arrangements provide for it not to apply.”

#### Commencement Information

**I105** Sch. 3 para. 2 wholly in force at 28.7.2001; Sch. 3 para. 2 not in force at Royal Assent see s. 108; Sch. 3 para. 2 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 2 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 3 (1) Section 5 of that Act (vice-chairman of principal council in England) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) A member of the executive of a principal council may not be appointed as the vice-chairman of the council.”

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#### Commencement Information

**I106** Sch. 3 para. 3 wholly in force at 28.7.2001; Sch. 3 para. 3 not in force at Royal Assent see s. 108; Sch. 3 para. 3 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 3 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

4 (1) Section 21 of that Act (constitution of principal councils in Wales) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) Where a council falling within subsection (1) are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, the council shall consist of an elected mayor, a chairman and councillors.”

#### Commencement Information

**I107** Sch. 3 para. 4 wholly in force at 28.7.2001; Sch. 3 para. 4 not in force at Royal Assent see s. 108; Sch. 3 para. 4 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 4 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

5 (1) Section 22 of that Act (chairman of principal council in Wales) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) A member of the executive of a principal council may not be elected as the chairman of the council.”

(3) After subsection (4) there is inserted—

“(4A) Subsection (4) above shall have effect in relation to a principal council which are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive as if it provided for the elected mayor of the council to have precedence in the area of that council, but this subsection shall not apply if the executive arrangements provide for it not to apply.”

#### Commencement Information

**I108** Sch. 3 para. 5 wholly in force at 28.7.2001; Sch. 3 para. 5 not in force at Royal Assent see s. 108; Sch. 3 para. 5 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 5 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

6 (1) Section 24 of that Act (vice-chairman of principal council in Wales) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) A member of the executive of a principal council may not be appointed as the vice-chairman of the council.”

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#### Commencement Information

**I109** Sch. 3 para. 6 wholly in force at 28.7.2001; Sch. 3 para. 6 not in force at Royal Assent see s. 108; Sch. 3 para. 6 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 6 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

7 (1) Section 25A of that Act (title of chairman or vice-chairman of county borough council) is amended as follows.

(2) After subsection (2) there is inserted—

“(3) This section does not apply where a county borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive.”

#### Commencement Information

**I110** Sch. 3 para. 7 wholly in force at 28.7.2001; Sch. 3 para. 7 not in force at Royal Assent see s. 108; Sch. 3 para. 7 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 7 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

8 (1) Section 80 of that Act (disqualifications for election and holding office as member of local authority) is amended as follows.

(2) In subsection (1)(a) after “or deputy chairman” there is inserted “ or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive ”.

#### Commencement Information

**I111** Sch. 3 para. 8 wholly in force at 28.7.2001; Sch. 3 para. 8 not in force at Royal Assent see s. 108; Sch. 3 para. 8 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 8 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

9 (1) Section 83 of that Act (declaration of acceptance of office) is amended as follows.

(2) In subsection (1), after “councillor” there is inserted “ or elected mayor ”.

(3) In subsection (3), after paragraph (a) there is inserted—

“(aa) an elected mayor of the council to which the declarant is elected; or”.

#### Commencement Information

**I112** Sch. 3 para. 9 wholly in force at 28.7.2001; Sch. 3 para. 9 not in force at Royal Assent see s. 108; Sch. 3 para. 9 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 9 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

10 (1) Section 84 of that Act (resignation) is amended as follows.

(2) In subsection (1), after “Act” there is inserted “ or elected as an elected mayor ”.

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#### Commencement Information

**I113** Sch. 3 para. 10 wholly in force at 28.7.2001; Sch. 3 para. 10 not in force at Royal Assent see s. 108; Sch. 3 para. 10 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 10 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

11 (1) Section 245 of that Act (status of certain districts, parishes and communities) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) Subsection (1)(b) above does not apply where the council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive.”

#### Commencement Information

**I114** Sch. 3 para. 11 wholly in force at 28.7.2001; Sch. 3 para. 11 not in force at Royal Assent see s. 108; Sch. 3 para. 11 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 11 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

12 (1) Section 270 of that Act (general provisions as to interpretation) is amended as follows.

(2) In subsection (1), after the definition of “Easter break” there is inserted—

““elected mayor” has the same meaning as in Part II of the Local Government Act 2000;”.

(3) In subsection (1), after the definition of “electoral area” there is inserted—

““executive”, “executive arrangements” and “executive leader” have the same meaning as in Part II of the Local Government Act 2000;”.

(4) In subsection (1), after the definition of “land” there is inserted—

““leader and cabinet executive” has the same meaning as in Part II of the Local Government Act 2000;”.

(5) In subsection (1), after the definition of “local statutory provision” there is inserted—

““mayor and cabinet executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000;”.

(6) After subsection (4) there is inserted—

“(4A) Where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, subsection (4) above shall have effect with the omission of paragraphs (a) and (b).”

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### Commencement Information

**II15** Sch. 3 para. 12 wholly in force at 28.7.2001; Sch. 3 para. 12 not in force at Royal Assent see s. 108; Sch. 3 para. 12 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 12 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

13 (1) Schedule 2 to that Act (constitution and membership of London borough councils) is amended as follows.

(2) After paragraph 5 there is inserted—

*“ Modifications of preceding provisions*

5A Where a London borough council are operating executive arrangements which involve a leader and cabinet executive—

(a) paragraph 2 above shall have effect as if the following sub-paragraph were inserted after sub-paragraph (1)—

(1A) A member of the executive of a London borough council may not be elected as the mayor of the borough.

,

(b) paragraph 5 above shall have effect as if the following sub-paragraph were inserted after sub-paragraph (1)—

(1A) A member of the executive of a London borough council may not be appointed as the deputy mayor.

5B Where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive, the preceding provisions of this Schedule shall have effect with the modifications specified in paragraphs 5C to 5I below.

5C The council shall consist of an elected mayor, a chairman and councillors.

5D Paragraphs 2(1) and 2(5) above shall have effect as if for the expression “mayor of a London borough” there were substituted “chairman of a London borough council”.

5E Paragraph 2 above shall have effect as if the following sub-paragraph were inserted after sub-paragraph (1)—

(1A) A member of the executive of a London borough council may not be elected as the chairman of the council.

5F Paragraphs 2(2) to (4) and 3 above shall have effect as if for any reference to “mayor” there were substituted “chairman”.

5G Paragraph 2(5) above shall have effect as if it provided for the elected mayor to have precedence in the borough, but this paragraph shall not apply if the executive arrangements provide for it not to apply.

5H Paragraph 5 above shall have effect as if for sub-paragraphs (1) to (3) there were substituted—

(1) A London borough council shall appoint a member of the council to be vice-chairman of the council.

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- (1A) A member of the executive of a London borough council may not be appointed as the vice-chairman of the council.
- (2) The vice-chairman shall, unless he resigns or becomes disqualified, hold office until immediately after the election of a chairman at the next annual meeting of the council and during that time shall continue to be a member of the council notwithstanding the provisions of this Schedule relating to the retirement of councillors.
- (3) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chairman may be done by, to or before the vice-chairman.”
- 5I Paragraphs 5(4) above shall have effect as if for the expression “ deputy mayor” there were substituted “vice-chairman”.”

#### Commencement Information

**I116** Sch. 3 para. 13 wholly in force at 28.7.2001; Sch. 3 para. 13 not in force at Royal Assent see s. 108; Sch. 3 para. 13 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 13 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 14 (1) Schedule 12 to that Act (meetings and proceedings of local authorities) is amended as follows.
- (2) In paragraph 5, after sub-paragraph (3) there is inserted—
- “(4) A member of an executive of a principal council may not be chosen to preside under sub-paragraph (3) above.”
- (5) Sub-paragraphs (2)(c) and (3)(c) above do not apply where a London borough council are operating executive arrangements which involve a mayor and cabinet executive or a mayor and council manager executive. ”

#### Commencement Information

**I117** Sch. 3 para. 14 in force at 28.7.2001; Sch. 3 para. 14 not in force at Royal Assent see s. 108; Sch. 3 para. 14 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); Sch. 3 para. 14 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Status

- 1 (1) The Standards Board for England (referred to in this Schedule as the Standards Board) is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

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- (2) The members and employees of the Standards Board are not to be regarded as civil servants and the property of the Board is not to be regarded as property of, or held on behalf of, the Crown.

#### Commencement Information

**I118** Sch. 4 para. 1 wholly in force at 28.7.2001; Sch. 4 para. 1 not in force at Royal Assent see s. 108; Sch. 4 para. 1 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 1 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### General powers

- 2 (1) The Standards Board may do such things and enter into such transactions as are calculated to facilitate, or are incidental or conducive to, the exercise of—
- (a) the functions of the Board,
  - (b) the functions of its ethical standards officers, or
  - (c) the functions of the president, deputy president or any tribunal of the Adjudication Panel for England.
- (2) The power under sub-paragraph (1) includes power to acquire and dispose of land.
- (3) Nothing in sub-paragraph (2) affects the generality of the power under sub-paragraph (1).

#### Commencement Information

**I119** Sch. 4 para. 2 wholly in force at 28.7.2001; Sch. 4 para. 2 not in force at Royal Assent see s. 108; Sch. 4 para. 2 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 2 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Disqualifications

- 3 (1) A person is to be disqualified for being appointed as, or for being, a member of the Standards Board if he is disqualified for being, or becoming (whether by election or otherwise), a member of a local authority or a member of a relevant authority.
- (2) A person may not be employed as an ethical standards officer if—
- (a) he is disqualified for being, or becoming (whether by election or otherwise), a member of a local authority or a member of a relevant authority,
  - (b) he is a member or an officer of a relevant authority, or
  - (c) he is a member of a committee, sub-committee, joint committee or joint sub-committee of a relevant authority.
- (3) An ethical standards officer is to be treated as being in breach of the terms of his employment if—
- (a) he becomes disqualified for being, or becoming (whether by election or otherwise), a member of a local authority or a member of a relevant authority,
  - (b) he becomes a member or an officer of a relevant authority, or
  - (c) he becomes a member of a committee, sub-committee, joint committee or joint sub-committee of a relevant authority.



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- (4) In this paragraph “local authority” has the meaning given by section 270(1) of the <sup>M85</sup>Local Government Act 1972.

#### Commencement Information

**I120** Sch. 4 para. 3 wholly in force at 28.7.2001; Sch. 4 para. 3 not in force at Royal Assent see s. 108; Sch. 4 para. 3 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 3 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M85** 1972 c. 70.

#### *Chairman and deputy chairman*

- 4 The Secretary of State must appoint one of the members of the Standards Board to be chairman and another to be deputy chairman.

#### Commencement Information

**I121** Sch. 4 para. 4 wholly in force at 28.7.2001; Sch. 4 para. 4 not in force at Royal Assent see s. 108; Sch. 4 para. 4 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 4 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *Tenure of office*

- 5 (1) Subject to the provisions of this paragraph, a person is to hold and vacate office as chairman, deputy chairman or member of the Standards Board in accordance with the terms of his appointment.
- (2) A chairman, deputy chairman or member of the Standards Board may at any time resign his office by notice in writing addressed to the Secretary of State.
- (3) The Secretary of State may remove a chairman, deputy chairman or member of the Standards Board from office if the Secretary of State considers—
- (a) that that person is unable or unfit to discharge the functions of his office, or
  - (b) that that person has not complied with the terms of his appointment.
- (4) If a chairman or deputy chairman of the Standards Board ceases to be a member of the Board he is also to cease to be chairman or deputy chairman.
- (5) A person who ceases, otherwise than by virtue of sub-paragraph (3), to be a chairman, deputy chairman or member of the Standards Board is to be eligible for re-appointment.

#### Commencement Information

**I122** Sch. 4 para. 5 wholly in force at 28.7.2001; Sch. 4 para. 5 not in force at Royal Assent see s. 108; Sch. 4 para. 5 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 5 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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### *Employees*

- 6 (1) Subject to sub-paragraph (2), the Standards Board may appoint a chief executive but any such appointment requires the consent of the Secretary of State.
- (2) The first appointment to the position of chief executive may be made by the Secretary of State after consultation with the chairman (or chairman designate) of the Standards Board.
- (3) The Standards Board may, in addition to appointing a chief executive and ethical standards officers, appoint such employees as it considers necessary for the purpose of enabling the Board and its ethical standards officers to exercise their functions.
- (4) The Standards Board may also appoint such employees as it considers necessary for the purpose of enabling the president, deputy president and any tribunals of the Adjudication Panel for England to exercise their functions.
- (5) No person employed by the Standards Board is to be employed for the purposes of both—
- (a) assisting any ethical standards officer in the conduct of an investigation under section 59, and
  - (b) enabling the president, deputy president and any tribunals of the Adjudication Panel for England to exercise their functions.
- (6) Subject to paragraph 7, employees of the Standards Board are to be appointed on such terms and conditions of service as the Board, with the approval of the Secretary of State, thinks fit.

#### **Commencement Information**

**I123** Sch. 4 para. 6 wholly in force at 28.7.2001; Sch. 4 para. 6 not in force at Royal Assent see s. 108; Sch. 4 para. 6 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 6 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Remuneration etc.*

- 7 (1) The Standards Board may pay to—
- (a) any member of the Board such remuneration or allowances (if any) as the Secretary of State may determine,
  - (b) any employee of the Board such remuneration or allowances as the Secretary of State may determine.
- (2) The Standards Board may—
- (a) pay such pensions, allowances or gratuities as the Secretary of State may determine to or in respect of any persons who have been or are members or employees of the Board,
  - (b) make such payments as the Secretary of State may determine towards the provision of pensions, allowances or gratuities to or in respect of any such persons,
  - (c) provide and maintain such schemes (whether contributory or not) as the Secretary of State may determine for the payment of pensions, allowances or gratuities to or in respect of any such persons.

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- (3) Any reference in sub-paragraph (2) to pensions, allowances or gratuities to or in respect of any persons who have been or are members or employees of the Standards Board includes pensions, allowances or gratuities by way of compensation to or in respect of any members or employees of the Board who cease to hold office or suffer loss of office or employment.

#### Commencement Information

**I124** Sch. 4 para. 7 wholly in force at 28.7.2001; Sch. 4 para. 7 not in force at Royal Assent see s. 108; Sch. 4 para. 7 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 7 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 8 The Standards Board may pay to any member of the Adjudication Panel for England such remuneration, fees or allowances (if any) as the Secretary of State may determine.

#### Commencement Information

**I125** Sch. 4 para. 8 wholly in force at 28.7.2001; Sch. 4 para. 8 not in force at Royal Assent see s. 108; Sch. 4 para. 8 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 8 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *Proceedings*

- 9 (1) The Standards Board may regulate its own procedure (and in particular may specify a quorum for meetings).
- (2) The validity of any proceedings of the Standards Board is not to be affected—
- (a) by any vacancy among its members or in the office of chairman or deputy chairman,
  - (b) by any defect in the appointment of any person as chairman, deputy chairman or member, or
  - (c) by a contravention of paragraph 3 or 10.

#### Commencement Information

**I126** Sch. 4 para. 9 wholly in force at 28.7.2001; Sch. 4 para. 9 not in force at Royal Assent see s. 108; Sch. 4 para. 9 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 9 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *<sup>F81</sup> Delegation*

#### Textual Amendments

**F81** Sch. 4 para. 9A and heading inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [ss. 112, 128\(3\)\(a\)](#); [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8Sch.](#))

- 9A The Standards Board may delegate any of its functions to—
- (a) a committee or sub-committee established by the Board,

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- (b) an individual member of the Board, or
- (c) an officer or servant of the Board.]

#### *Members' interests*

- 10 (1) A member of the Standards Board who is directly or indirectly interested in any matter brought up for consideration at a meeting of the Board—
- (a) must disclose the nature of his interest to the meeting, and
  - (b) must not take part in any deliberation or decision of the Board with respect to that matter.
- (2) A member is taken to be interested under sub-paragraph (1), in particular, where the matter being considered is a failure to comply with the code of conduct of a relevant authority and he is, or has been—
- (a) a member or officer of that authority, or
  - (b) a member of a committee, sub-committee, joint committee or joint sub-committee of that authority.

#### **Commencement Information**

**I127** Sch. 4 para. 10 wholly in force at 28.7.2001; Sch. 4 para. 10 not in force at Royal Assent see s. 108; Sch. 4 para. 10 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 10 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *Law of defamation*

- 11 For the purposes of the law of defamation, any statement (whether written or oral) made by an ethical standards officer in connection with the exercise of his functions shall be absolutely privileged.

#### **Commencement Information**

**I128** Sch. 4 para. 11 wholly in force at 28.7.2001; Sch. 4 para. 11 not in force at Royal Assent see s. 108; Sch. 4 para. 11 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 11 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *Finance*

- 12 (1) The Secretary of State must pay to the Standards Board in respect of each financial year such amount as he determines to be the amount required—
- (a) for the performance during that year of the functions of the Board, and
  - (b) for the performance during that year of the functions of its ethical standards officers.
- (2) Any determination under sub-paragraph (1) requires the approval of the Treasury.
- (3) In this paragraph “financial year” means—
- (a) the period beginning with the date on which the Standards Board is established and ending with the next 31st March following that date, and
  - (b) each successive period of twelve months ending with 31st March.

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### Commencement Information

**I129** Sch. 4 para. 12 wholly in force at 28.7.2001; Sch. 4 para. 12 not in force at Royal Assent see s. 108; Sch. 4 para. 12 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 12 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### Accounts

- 13 (1) The Standards Board must—
- (a) keep proper accounts and records in relation to the accounts, and
  - (b) prepare in respect of each financial year a statement of accounts in such form as the Secretary of State may, with the approval of the Treasury, direct.
- (2) The accounts of the Standards Board [<sup>F82</sup>in respect of financial years ending on or before 31st March 2004] must be audited by persons appointed for the purpose for each [<sup>F83</sup>such] financial year by the Secretary of State.
- (3) A copy of any accounts of the Standards Board audited under sub-paragraph (2), and of the report made on those accounts by the persons appointed to audit them, must be sent to the Secretary of State as soon as reasonably practicable after the report is received by the Board.
- (4) The Secretary of State must lay before Parliament a copy of any accounts or report sent to him under sub-paragraph (3).
- [<sup>F84</sup>(4A) The Standards Board must send to the Comptroller and Auditor General a copy of the statement of accounts prepared under sub-paragraph (1) in respect of each financial year ending on or after 31st March 2005 as soon as reasonably practicable after the end of the financial year to which the statement relates.
- (4B) The Comptroller and Auditor General must examine, certify and report on each statement of accounts sent to him by the Board under sub-paragraph (4A) and must lay a copy of the statement and his report on it before each House of Parliament.]
- (5) In this paragraph “financial year” has the meaning given by paragraph 12(3).

### Textual Amendments

**F82** Words in Sch. 4 para. 13(2) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, [20\(2\)\(a\)](#)

**F83** Word in Sch. 4 para. 13(2) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, [20\(2\)\(b\)](#)

**F84** Sch. 4 para. 13(4A)(4B) inserted (23.5.2003) by [Government Resources and Accounts Act 2000 \(Audit of Public Bodies\) Order 2003 \(S.I. 2003/1326\)](#), arts. 1, [20\(3\)](#)

### Commencement Information

**I130** Sch. 4 para. 13 wholly in force at 28.7.2001; Sch. 4 para. 13 not in force at Royal Assent see s. 108; Sch. 4 para. 13 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 13 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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### *Annual report*

- 14 (1) As soon as possible after the end of each financial year the Standards Board must publish a report on the discharge of its functions during that year.
- (2) The Standards Board must send a copy of each annual report to the Secretary of State who must lay a copy of the report before each House of Parliament.
- (3) In this paragraph “financial year” has the meaning given by paragraph 12(3).

#### **Commencement Information**

**I131** Sch. 4 para. 14 wholly in force at 28.7.2001; Sch. 4 para. 14 not in force at Royal Assent see s. 108; Sch. 4 para. 14 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 14 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Application of seal and evidence*

- 15 The application of the seal of the Standards Board is to be authenticated by the signature—
- (a) of the chairman, or
- (b) of some other member who has been authorised by the Board (whether generally or specially) for that purpose.

#### **Commencement Information**

**I132** Sch. 4 para. 15 wholly in force at 28.7.2001; Sch. 4 para. 15 not in force at Royal Assent see s. 108; Sch. 4 para. 15 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 15 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 16 A document purporting to be duly executed under the seal of the Standards Board or to be signed on its behalf may be received in evidence and, unless the contrary is proved, is to be taken to be so executed or signed.

#### **Commencement Information**

**I133** Sch. 4 para. 16 wholly in force at 28.7.2001; Sch. 4 para. 16 not in force at Royal Assent see s. 108; Sch. 4 para. 16 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 16 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Parliamentary Commissioner*

- 17 In Schedule 2 to the <sup>M86</sup>Parliamentary Commissioner Act 1967 (departments etc subject to investigation) the following entry is inserted at the appropriate place—
- “Standards Board for England.”

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#### Commencement Information

**I134** Sch. 4 para. 17 wholly in force at 28.7.2001; Sch. 4 para. 17 not in force at Royal Assent see s. 108; Sch. 4 para. 17 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 17 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M86** 1967 c. 13.

#### *Parliamentary disqualification*

18 (1) In the <sup>M87</sup>House of Commons Disqualification Act 1975, in Part II of Schedule 1 (bodies of which all members are disqualified) the following entry is inserted at the appropriate place—

“The Standards Board for England.”

(2) The same entry is inserted at the appropriate place in Part II of Schedule 1 to the <sup>M88</sup>Northern Ireland Assembly Disqualification Act 1975.

#### Commencement Information

**I135** Sch. 4 para. 18 wholly in force at 28.7.2001; Sch. 4 para. 18 not in force at Royal Assent see s. 108; Sch. 4 para. 18 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [arts. 1\(2\), 2](#); Sch. 4 para. 18 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M87** 1975 c. 24.

**M88** 1975 c. 25.

## SCHEDULE 5 **U.K.**

Section 107.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Children and Young Persons Act 1933 (c. 12)*

1 In section 34A of the Children and Young Persons Act 1933 (attendance at court of parent or guardian), in subsection (2)(b) for the words “stand referred to their social services committee under” there is substituted “are social services functions within the meaning of”.

#### Commencement Information

**I136** Sch. 5 para. 1 wholly in force at 28.7.2001; Sch. 5 para. 1 not in force at Royal Assent see s. 108; Sch. 5 para. 1 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(f\)](#); Sch. 5 para. 1 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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- 2 In section 55 of that Act (power to order parent or guardian to pay fine etc), in subsection (5)(b) for the words “stand referred to their social services committee under” there is substituted “ are social services functions within the meaning of”.

**Commencement Information**

**I137** Sch. 5 para. 2 wholly in force at 28.7.2001; Sch. 5 para. 2 not in force at Royal Assent see s. 108; Sch. 5 para. 2 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 2 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

*Local Authority Social Services Act 1970 (c. 42)*

- 3 In section 2 of the Local Authority Social Services Act 1970 (local authority to establish social services committees)—
- (a) in subsection (1), for paragraphs (a) and (b) there is substituted “their social services functions”,
  - (b) subsection (2) is omitted.

**Commencement Information**

**I138** Sch. 5 para. 3 wholly in force at 28.7.2001; Sch. 5 para. 3 not in force at Royal Assent see s. 108; Sch. 5 para. 3 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 3 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 4 In section 3 of that Act (business of social services committee), in subsection (1), the words “ (hereafter in this Act referred to as “social services functions”)” are omitted.

**Commencement Information**

**I139** Sch. 5 para. 4 wholly in force at 28.7.2001; Sch. 5 para. 4 not in force at Royal Assent see s. 108; Sch. 5 para. 4 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 4 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 5 In section 13 of that Act (orders and regulations), in subsection (3), for “ 2(2)” there is substituted “ 1A ”.

**Commencement Information**

**I140** Sch. 5 para. 5 wholly in force at 28.7.2001; Sch. 5 para. 5 not in force at Royal Assent see s. 108; Sch. 5 para. 5 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 5 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 6 In section 15 of that Act (citation, interpretation etc), in subsection (2), for “3” there is substituted “ 1A ”.



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#### Commencement Information

**I141** Sch. 5 para. 6 wholly in force at 28.7.2001; Sch. 5 para. 6 not in force at Royal Assent see s. 108; Sch. 5 para. 6 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 6 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 7 In Schedule 1 to that Act (enactments conferring functions assigned to social services committees) after the entry relating to the <sup>M89</sup>Housing Act 1985 there is inserted—

“Disabled Persons (Services,  
Consultation and Representation) Act  
1986 (c. 33)

Sections 1 to 5, 7 and 8 except in so far as they assign functions to a local authority in their capacity as a local education authority.

Representation and assessment of disabled persons.”

#### Commencement Information

**I142** Sch. 5 para. 7 wholly in force at 28.7.2001; Sch. 5 para. 7 not in force at Royal Assent see s. 108; Sch. 5 para. 7 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 7 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M89** 1985 c. 68.

### Local Government Act 1972 (c. 70)

VALID FROM 22/05/2012

- 8 In section 80 of the Local Government Act 1972 (disqualifications for election and holding office as member of local authority), in subsection (1)(e) the words “or under the Audit Commission Act 1998” are omitted.

- 9 In section 85 of that Act (vacation of office by failure to attend meetings), after subsection (3) there is inserted—

“(3A) Any period during which a member of a local authority is suspended or partially suspended under section 66, 73, 78 or 79 of the Local Government Act 2000 shall be disregarded for the purpose of calculating the period of six consecutive months under subsection (1) above (and, accordingly, a period during which a member fails to attend meetings of the authority that falls immediately before, and another such period that falls immediately after, a period of suspension or partial suspension shall be treated as consecutive).”

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**Commencement Information**  
**I143** Sch. 5 para. 9 wholly in force at 28.7.2001; Sch. 5 para. 9 not in force at Royal Assent see s. 108; Sch. 5 para. 9 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 9 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

10 In section 86 of that Act (declaration by local authority of vacancy in office in certain cases), in subsection (1)(b) after “1998” there is inserted “ or section 79 of the Local Government Act 2000 ”.

**Commencement Information**  
**I144** Sch. 5 para. 10 wholly in force at 28.7.2001; Sch. 5 para. 10 not in force at Royal Assent see s. 108; Sch. 5 para. 10 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 10 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

11 In section 87(1) of that Act (date of casual vacancies)—  
 (a) after paragraph (e) there is inserted—  
     “(ee) in the case of a disqualification under section 79 of the Local Government Act 2000, on the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant decision under that section or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;”,  
 (b) in paragraph (f), for “(e)” there is substituted “ (ee) ”.

**Commencement Information**  
**I145** Sch. 5 para. 11 wholly in force at 28.7.2001; Sch. 5 para. 11 not in force at Royal Assent see s. 108; Sch. 5 para. 11 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 11 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

VALID FROM 22/05/2012

12 Sections 94 to 98 of that Act (restrictions on voting) cease to have effect.

VALID FROM 22/05/2012

13 Section 105 of that Act (disability for voting on account of interest in contracts etc) ceases to have effect.

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#### Textual Amendments

**F85** Sch. 5 para. 14 repealed (1.10.2004 except in relation to W., 10.11.2004 for W.) by [Fire and Rescue Services Act 2004 \(c. 21\)](#), s. 61, [Sch. 2](#); [S.I. 2004/2304](#), art. 2; [S.I. 2004/2917](#), art. 2

#### Commencement Information

**I146** Sch. 5 para. 14 wholly in force at 28.7.2001; Sch. 5 para. 14 not in force at Royal Assent see s. 108; Sch. 5 para. 14 in force at 19.12.2000 in relation to England and to police authorities in Wales by [S.I. 2000/3335](#), [art. 2](#); Sch. 5 para. 14 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

VALID FROM 22/05/2012

- 15 In section 30 of that Act (reports on investigation by Local Commissioner)—
- (a) in subsection (3), the words “except where subsection (3A) below applies” are omitted,
  - (b) subsection (3A) is omitted.

#### *Adoption Act 1976 (c. 36)*

**F86** 16 .....

#### Textual Amendments

**F86** Sch. 5 para. 16 repealed (30.12.2005) by [Adoption and Children Act 2002 \(c. 38\)](#), s. 148(1), [Sch. 5](#) (with [Sch. 4 paras. 2](#), [Sch. 4 paras. 6-8](#)); [S.I. 2005/2897](#), art. 2(b)

#### Commencement Information

**I147** Sch. 5 para. 16 wholly in force at 28.7.2001; Sch. 5 para. 16 not in force at Royal Assent see s. 108; Sch. 5 para. 16 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\)](#), [2\(f\)](#); Sch. 5 para. 16 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### *National Health Service Act 1977 (c. 49)*

**F87** 17 .....

#### Textual Amendments

**F87** Sch. 5 para. 17 repealed (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 4](#) (with [Sch. 2 Pt. 1](#) [Sch. 3 Pt. 1](#))

#### Commencement Information

**I148** Sch. 5 para. 17 wholly in force at 28.7.2001; Sch. 5 para. 17 not in force at Royal Assent see s. 108; Sch. 5 para. 17 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\)](#), [2\(f\)](#); Sch. 5 para. 17 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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*Registered Homes Act 1984 (c. 23)*

- 18 In its application to a registration authority which are operating executive arrangements (within the meaning of Part II of this Act), section 13 of the Registered Homes Act 1984 (right to make representations) shall have effect as if for subsection (5) there were substituted—

“(5) If he informs the registration authority that he desires to make oral representations, they shall make arrangements to enable him to make such representations.”

**Commencement Information**

**I149** Sch. 5 para. 18 wholly in force at 28.7.2001; Sch. 5 para. 18 not in force at Royal Assent see s. 108; Sch. 5 para. 18 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 18 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

*Children Act 1989 (c. 41)*

- 19 In section 22 of the Children Act 1989 (general duty of local authority in relation to children looked after by them), in subsection (1)(b) for the words “stand referred to their social services committee under” there is substituted “ are social services functions within the meaning of ”.

**Commencement Information**

**I150** Sch. 5 para. 19 wholly in force at 28.7.2001; Sch. 5 para. 19 not in force at Royal Assent see s. 108; Sch. 5 para. 19 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 19 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 20 In section 42 of that Act (right of guardian ad litem to have access to local authority records), in subsection (1)(b) for the words “stand referred to their social services committee under” there is substituted “ are social services functions within the meaning of ”.

**Commencement Information**

**I151** Sch. 5 para. 20 wholly in force at 28.7.2001; Sch. 5 para. 20 not in force at Royal Assent see s. 108; Sch. 5 para. 20 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 20 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

<sup>F88</sup>21 .....

**Textual Amendments**

**F88** Sch. 5 para. 21 repealed (7.6.2005) by Inquiries Act 2005 (c. 12), s. 51(1), Sch. 3 (with ss. 44, 50); S.I. 2005/1432, art. 2

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#### Commencement Information

**I152** Sch. 5 para. 21 wholly in force at 28.7.2001; Sch. 5 para. 21 not in force at Royal Assent see s. 108; Sch. 5 para. 21 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 21 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 22 In section 105 of that Act (interpretation), in subsection (5) for the words “which stand referred to the social services committee of that or any other local authority under” there is substituted “of that or any other local authority which are social services functions within the meaning of”.

#### Commencement Information

**I153** Sch. 5 para. 22 wholly in force at 28.7.2001; Sch. 5 para. 22 not in force at Royal Assent see s. 108; Sch. 5 para. 22 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 22 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

- 23 In its application to a local authority (within the meaning of Schedule 6 to that Act) which are operating executive arrangements (within the meaning of Part II of this Act), paragraph 6 of that Schedule (right to make representations) shall have effect as if for subsection (5) there were substituted—

“(5) If he informs the local authority that he desires to make oral representations, they shall make arrangements to enable him to make such representations.”

#### Commencement Information

**I154** Sch. 5 para. 23 wholly in force at 28.7.2001; Sch. 5 para. 23 not in force at Royal Assent see s. 108; Sch. 5 para. 23 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 23 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Local Government and Housing 1989 (c. 42)

- 24 (1) Section 5 of the Local Government and Housing Act 1989 (designation and reports of monitoring officer) is amended as follows.
- (2) In subsection (1), before “the officer so” there is inserted “subject to subsection (1A) below”.
- (3) After that subsection there is inserted—
- “(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority’s paid service.
- (1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—
- (a) a county council,
  - (b) a county borough council,
  - (c) a district council,
  - (d) a London borough council,
  - (e) the Greater London Authority, and

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- (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.”
- (4) In subsection (2), the words “or of any code of practice made or approved by or under any enactment” are omitted.
- (5) In subsection (2), as substituted in relation to the Greater London Authority by section 73(6) of the <sup>M90</sup>Greater London Authority Act 1999, in paragraph (a) the words “or of any code of practice made or approved by or under any enactment” are omitted.
- (6) After that subsection there is inserted—
- “(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the <sup>M91</sup>Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.”
- (7) In subsection (8), in paragraph (a) of the definition of “relevant authority”, for “(j)” there is substituted “(k)”.
- (8) After that subsection there is inserted—
- “(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.”

#### Marginal Citations

**M90** 1999 c. 29.

**M91** 1974 c. 7.

VALID FROM 22/05/2012

25 Section 19 of that Act (members’ interests) ceases to have effect.

VALID FROM 22/05/2012

26 Sections 31 and 32(1) of that Act (National Code of Local Government Conduct) are omitted.

27 Sections 33 to 35 of that Act (economic development and discretionary expenditure by local authorities) cease to have effect.

#### *Tribunals and Inquiries Act 1992 (c. 53)*

28 In Part I of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals), at the end of paragraph 27 there is inserted—

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“Local authorities, conduct of members 27A. A case tribunal or interim case tribunal appointed under section 76 of the Local Government Act 2000.”

#### Commencement Information

**I155** Sch. 5 para. 28 wholly in force at 28.7.2001; Sch. 5 para. 28 not in force at Royal Assent see s. 108; Sch. 5 para. 28 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 28 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Audit Commission Act 1998 (c. 18)

F89 29 .....

#### Textual Amendments

**F89** Sch. 5 para. 29 repealed (1.4.2004) by Health and Social Care (Community Health and Standards) Act 2003 (c. 43), s. 199(1)(4), Sch. 14 Pt. 2; S.I. 2004/759, art. 13

#### Commencement Information

**I156** Sch. 5 para. 29 wholly in force at 28.7.2001; Sch. 5 para. 29 not in force at Royal Assent see s. 108; Sch. 5 para. 29 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 29 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

30 In section 49 of that Act (restriction on disclosure of information), after subsection (1)(d) there is inserted—  
“(dd) for the purposes of the functions of an ethical standards officer or a Local Commissioner in Wales under Part III of the Local Government Act 2000”.

#### Commencement Information

**I157** Sch. 5 para. 30 wholly in force at 28.7.2001; Sch. 5 para. 30 not in force at Royal Assent see s. 108; Sch. 5 para. 30 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 30 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Greater London Authority Act 1999 (c. 29)

31 In section 6 of the Greater London Authority Act 1999 (failure to attend meeting of the Assembly), after subsection (4) there is inserted—  
“(5) Any period during which an Assembly member is suspended or partially suspended under section 66, 73, 78 or 79 of the Local Government Act 2000 shall be disregarded for the purpose of calculating the period of six consecutive months under subsection (1).”

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#### Commencement Information

**I158** Sch. 5 para. 31 wholly in force at 28.7.2001; Sch. 5 para. 31 not in force at Royal Assent see s. 108; Sch. 5 para. 31 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 31 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

32 Section 13 of that Act (failure of Mayor to attend meetings) is to become subsection (1) of that section and after that subsection there is inserted—

“(2) Any meeting of the Assembly which the Mayor is unable to attend because he is suspended or partially suspended under section 66, 73, 78 or 79 of the Local Government Act 2000 shall be disregarded for the purposes of subsection (1) above.”

#### Commencement Information

**I159** Sch. 5 para. 32 wholly in force at 28.7.2001; Sch. 5 para. 32 not in force at Royal Assent see s. 108; Sch. 5 para. 32 in force at 19.12.2000 in relation to England and to police authorities in Wales by S.I. 2000/3335, art. 2; Sch. 5 para. 32 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

33 In section 31 of that Act (limits of the general power), in subsection (5), for paragraphs (a) and (b) there is substituted “ any social services function within the meaning of the Local Authority Social Services Act 1970 ”.

#### Commencement Information

**I160** Sch. 5 para. 33 wholly in force at 28.7.2001; Sch. 5 para. 33 not in force at Royal Assent see s. 108; Sch. 5 para. 33 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); Sch. 5 para. 33 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

VALID FROM 22/05/2012

34 Section 66 of that Act (the Secretary of State’s guidance on ethical standards) ceases to have effect.

#### Commencement Information

**I161** Sch. 6 partly in force; Sch. 6 not in force at Royal Assent see s. 108; Sch. 6 in force as follows: at 28.9.2000 for specified repeal see s. 108(2)(c); at 1.10.2000 for specified repeal in relation to England only by S.I. 2000/2187, arts. 1(3), 3; at 18.10.2000 for specified repeals in relation to England only by S.I. 2000/2836, arts. 1(3), 2(b); at 26.10.2000 for specified repeals in relation to England only by S.I. 2000/2849, arts. 1(3), 2(f); at 9.4.2001 for specified repeals in relation to Wales only by S.I. 2001/1471, art. 2; at 28.7.2001 for the remaining repeals other than those specified in s. 108(3)(c) that have not



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already been brought into force, see s. 108(3)-(6); at 27.7.2002 for specified repeals in relation to England and police authorities in Wales by S.I. 2002/1718, art. 2(b)

Chapter	Short title	Extent of repeal
1970 c. 42.	Local Authority Social Services Act 1970.	Section 2(2).  In section 3(1), the words “(hereafter in this Act referred to as “social services functions”)”.  Section 6(5).
1972 c. 70.	Local Government Act 1972.	In section 80(1)(e), the words “or under the Audit Commission Act 1998”.  Sections 94 to 98.  In section 100D(2), “of the list, or”.  Section 105.  In section 265A(1)(b), “94 to 98”.
1974 c. 7.	Local Government Act 1974.	In section 30, in subsection (3), “except where subsection (3A) below applies” and subsection (3A).
1976 c. 57.	Local Government (Miscellaneous Provisions) Act 1976.	In section 25(8), the words from “Without prejudice” to “inhabitants of its area”.
1978 c. 50.	Inner Urban Areas Act 1978.	In section 13, the words “section 137(1) of the Local Government Act 1972 or”.
1985 c. 51.	Local Government Act 1985.	In Schedule 14, paragraph 13.
1985 c. 67.	Transport Act 1985.	In section 74(12), “section 94 of the 1972 Act or”.
1985 c. 68.	Housing Act 1985.	Section 11A(4).
1986 c. 60.	Financial Services Act 1986.	In Schedule 16, paragraph 8(a).
1989 c. 42.	Local Government and Housing Act 1989.	In section 5(2)(a), and in section 5(2)(a) as substituted by section 73(6) of the Greater London Authority Act 1999, the words “or of any code of practice made or approved by or under any enactment”.

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		Sections 19, 31, 32(1) and 33 to 35.
		In Schedule 11, paragraphs 22 and 23.
1992 c. 14.	Local Government Finance Act 1992.	In Schedule 13, paragraph 32.
1994 c. 19.	Local Government (Wales) Act 1994.	In Schedule 15, paragraph 25.
1994 c. 29.	Police and Magistrates' Courts Act 1994.	In Schedule 4, paragraph 7.
1995 c. 25.	Environment Act 1995.	In Schedule 7, paragraphs 9 and 10.
1996 c. 16.	Police Act 1996.	In Schedule 7, in paragraph 1(2)(h), "98(1A)" and paragraph 21.
1996 c. 56.	Education Act 1996.	In Schedule 37, paragraph 63.
1997 c. 50.	Police Act 1997.	In Schedule 6, paragraphs 1 and 2.
1998 c. 18.	Audit Commission Act 1998.	In section 16(1)(a), "or 18". In section 17, subsection (1) (b) and "and" preceding it; in subsection (2), "subject to subsection (3)", paragraphs (a) and (b) and "and" following paragraph (b); subsections (3), (5)(b), (7) and (8). Section 18. Sections 20 to 23. In Schedule 3, paragraph 3(1).
1999 c. 29.	Greater London Authority Act 1999.	Section 66.  In Schedule 8, paragraphs 6 and 7.

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