



# Local Government and Public Involvement in Health Act 2007

## 2007 CHAPTER 28

### PART 1

#### STRUCTURAL AND BOUNDARY CHANGE IN ENGLAND

#### CHAPTER 1

#### STRUCTURAL AND BOUNDARY CHANGE

#### *Change from two tiers to single tier of local government*

### **1 “Principal authority” and “single tier of local government”**

- (1) For the purposes of this Chapter, each of the following is a “principal authority”—
- (a) a county council in England;
  - (b) a district council in England.
- (2) For the purposes of this Chapter there is “a single tier of local government” for an area if—
- (a) there is a county council and no district councils for that area; or
  - (b) there is a district council and no county council for that area.
- (3) For the purposes of subsection (2)(b) there is a county council “for” an area which is a district if there is a county council which has in relation to that area the functions of a county council.

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#### **Commencement Information**

**11** S. 1 in force at 1.11.2007 for E. by [S.I. 2007/3136](#), art. 2(a)

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*Status: Point in time view as at 01/04/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

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## 2 Invitations and directions for proposals for single tier of local government

- (1) The Secretary of State may invite or direct any principal authority to make one of the following proposals—
  - (a) a Type A proposal;
  - (b) a Type B proposal;
  - (c) a Type C proposal;
  - (d) a combined proposal.
- (2) A Type A proposal is a proposal that there should be a single tier of local government for the area which is the county concerned.
- (3) A Type B proposal is a proposal that there should be a single tier of local government for an area which—
  - (a) is currently a district, or two or more districts, in the county concerned; and
  - (b) is specified in the proposal.
- (4) A Type C proposal is a proposal that there should be a single tier of local government for an area specified in the proposal which currently consists of—
  - (a) the county concerned or one or more districts in the county concerned; and
  - (b) one or more relevant adjoining areas.
- (5) A combined proposal is a proposal that consists of—
  - (a) two or more Type B proposals,
  - (b) two or more Type C proposals, or
  - (c) one or more Type B proposals and one or more Type C proposals,
 but a proposal is not a combined proposal if it includes any Type B or C proposals that are alternatives.
- (6) In this section “the county concerned” means—
  - (a) in relation to a principal authority which is the council for a county, that county;
  - (b) in relation to a principal authority which is the council for a district, the county in which the district is.
- (7) In this section a “relevant adjoining area” means an area which adjoins the county concerned and is currently a county in England, a district in England, or two or more such counties or districts.
- (8) An invitation or direction may either—
  - (a) be such that the authority may choose whether to make a Type A, Type B, Type C or combined proposal; or
  - (b) specify which one of those kinds of proposal is invited (or, in the case of a direction, required).
- (9) Subsection (1) is subject to section 3(1).

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### Commencement Information

**I2** S. 2 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

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

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### **3 Invitations, directions and proposals: supplementary**

- (1) A direction under section 2—
  - (a) may not be given after 25 January 2008; and
  - (b) may be given on or before that date only where the Secretary of State believes that giving the direction would be in the interests of effective and convenient local government.
- (2) A direction under section 2 may specify a date by which a proposal must be made.
- (3) An invitation under section 2 may specify a date by which a proposal may be made.
- (4) A proposal made by virtue of section 2 may not specify an area as one for which there should be a single tier of local government unless the whole or any part of that area is currently a two-tier area (as defined by section 23(2)).
- (5) In responding to an invitation under section 2, or complying with a direction under that section, an authority must have regard to any guidance from the Secretary of State as to—
  - (a) what a proposal should seek to achieve;
  - (b) matters that should be taken into account in formulating a proposal.
- (6) Where invitations or directions under section 2 are given to more than one authority, any authority that has received an invitation or direction may respond to the invitation, or comply with the direction, either by—
  - (a) making its own proposal in accordance with the invitation or direction; or
  - (b) making a proposal, in accordance with the invitation or direction, jointly with any of the other authorities.
- (7) An invitation or direction under section 2 may be varied or revoked.
- (8) But a direction under section 2 may not be varied after 25 January 2008 if—
  - (a) the direction as originally given required the making of a Type A or Type B proposal; and
  - (b) the direction as varied would require or permit the making of a Type C or combined proposal.

#### **Commencement Information**

**I3** S. 3 in force at 1.11.2007 for E. by [S.I. 2007/3136](#), art. 2(a)

### **4 Request for Boundary Committee for England's advice**

- (1) This section applies where the Secretary of State receives a proposal in response to an invitation or direction under section 2.
- (2) The Secretary of State may request the Boundary Committee to advise, no later than a date specified in the request, on any matter that—
  - (a) relates to the proposal; and
  - (b) is specified in the request.

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- (3) The Secretary of State may at any time substitute a later date for the date specified in a request under subsection (2) (or for any date previously substituted under this subsection).

#### Commencement Information

**I4** S. 4 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## 5 Boundary Committee's powers

- (1) This section applies where the Boundary Committee receive a request for advice under section 4.
- (2) The Boundary Committee may provide the advice requested.
- (3) Where they provide that advice, the Boundary Committee may also do any of the following that they think appropriate—
- (a) recommend that the Secretary of State implements the proposal without modification;
  - (b) recommend that he does not implement it;
  - (c) make an alternative proposal to him.
- (4) In subsection (3)(a) “the proposal” means the Type A, Type B, Type C or combined proposal to which the request for advice related.
- (5) In subsection (3)(c) “an alternative proposal” means—
- (a) a proposal that there should be a single tier of local government for an area that—
    - (i) is, or includes, the whole or part of the county concerned; and
    - (ii) is specified in the alternative proposal; or
  - (b) a proposal consisting of two or more proposals that are within paragraph (a) (and are not alternatives to one another).
- (6) In this section “the county concerned” means—
- (a) the county that, under section 2(6), is the county concerned in relation to the authority which made the proposal referred to in subsection (4) above; or
  - (b) where that proposal was made by more than one authority, any county that (under section 2(6)) is the county concerned in relation to any of the authorities which made that proposal.
- (7) The area specified in an alternative proposal under this section may not extend into any area that is currently outside all local government areas.

#### Commencement Information

**I5** S. 5 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## 6 Boundary Committee's procedure

- (1) A local authority must if requested by the Boundary Committee to do so provide the Boundary Committee, by such date as the Boundary Committee may specify, with any

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information that the Boundary Committee may reasonably require in connection with any of their functions under section 5.

- (2) In making a recommendation or alternative proposal under section 5 the Boundary Committee must have regard to any guidance from the Secretary of State about the exercise of the Boundary Committee's functions under that section.
- (3) Any recommendation or alternative proposal under section 5 must be made no later than the relevant date.
- (4) Before making an alternative proposal under section 5(3)(c) the Boundary Committee must—
  - (a) publish a draft of the proposal; and
  - (b) take such steps as they consider sufficient to secure that persons who may be interested are informed of—
    - (i) the draft proposal; and
    - (ii) the period within which representations about it may be made to the Boundary Committee.
- (5) The Boundary Committee—
  - (a) must take into account any representations made to them within that period; and
  - (b) if they make any proposal to the Secretary of State, must inform any person who made such representations—
    - (i) of the proposal made; and
    - (ii) that representations about the proposal may be made to the Secretary of State until the end of the relevant period.
- (6) In subsection (5)(b) “the relevant period” means four weeks beginning with the relevant date.
- (7) In this section and section 7 “the relevant date” means the date specified in the request under section 4(2) (or, if a later date is substituted under section 4(3), the date substituted (or last substituted) under that provision).

#### **Commencement Information**

**16** S. 6 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## **7 Implementation of proposals by order**

- (1) Where the Secretary of State has received a proposal in response to an invitation or direction under section 2, he may—
  - (a) by order implement the proposal, with or without modification;
  - (b) if he has received an alternative proposal from the Boundary Committee under section 5, by order implement that alternative proposal with or without modification; or
  - (c) decide to take no action.
- (2) But where the Secretary of State has made a request under section 4 in relation to the proposal received in response to the invitation or direction, he may not make an order

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or decision under this section before the end of six weeks beginning with the relevant date (as defined by section 6(7)).

- (3) The Secretary of State may not in any case make an order under subsection (1)(a) implementing a proposal unless he has consulted the following about the proposal—
  - (a) every authority affected by the proposal (except the authority or authorities which made it); and
  - (b) such other persons as he considers appropriate.
- (4) For the purposes of this section an authority is “affected by” a proposal if it is a principal authority for an area which is, or any part of which is, in an area that the proposal suggests should have a single tier of local government.
- (5) Subsection (3) does not apply if the proposal was made jointly by every authority affected by it, and in that case the Secretary of State may before making an order under subsection (1)(a) (or deciding not to) consult such other persons as he considers appropriate.
- (6) In any case where he has received an alternative proposal from the Boundary Committee under section 5, the Secretary of State may request the Boundary Committee to provide him with information or advice on any matter relating to the proposal.
- (7) Where they receive such a request the Boundary Committee may provide the information or advice requested.

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**Commencement Information**

**I7** S. 7 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

*Boundary change*

**8 Review by Boundary Committee of local government areas**

- (1) The Boundary Committee may, either on their own initiative or at the request of the Secretary of State or a local authority, conduct a review of one or more local government areas.
- (2) Where they have conducted a review under this section the Boundary Committee may (subject to subsection (4)) recommend to the Secretary of State such boundary change as in consequence of the review seems to them desirable.
- (3) For the purposes of this section “boundary change” means any of the following or any combination of the following—
  - (a) the alteration of a local government area boundary;
  - (b) the abolition of a local government area;
  - (c) the constitution of a new local government area.
- (4) None of the following may be recommended under this section—
  - (a) a change consisting of the alteration of the boundary of a single-tier area and consequent abolition of an area that is currently two-tier;
  - (b) a change consisting of the alteration of the boundary of a two-tier area and consequent abolition of an area that is currently single-tier;

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- (c) a change consisting of the constitution of a new local government area and consequent abolition of an existing local government area, where the new local government area would include—
    - (i) the whole or part of any area that is currently single-tier; and
    - (ii) the whole or part of any area that is currently two-tier;
  - (d) a change consisting of the alteration of a local government area, or constitution of a new local government area, where the altered or new area would extend into an area that is currently outside all local government areas;
  - (e) a change whose effect would be that England (excluding the Isles of Scilly, the City of London, the Inner Temple and the Middle Temple) is no longer divided into areas each of which is—
    - (i) a county divided into districts, or comprising one district; or
    - (ii) a London borough.
- (5) Where the Boundary Committee have conducted a review under this section and consider that no boundary change is desirable, they may recommend to the Secretary of State that no boundary change should be made.
- (6) In considering whether (and, if so, what) boundary change is desirable, the Boundary Committee must have regard to—
- (a) the need to secure effective and convenient local government; and
  - (b) the need to reflect the identities and interests of local communities.
- (7) In exercising a function under subsection (1), (2), (5) or (6), a local authority or the Boundary Committee must have regard to any guidance from the Secretary of State about the exercise of that function.
- (8) A local authority must if requested by the Boundary Committee to do so provide the Boundary Committee, by such date as the Boundary Committee may specify, with any information that the Boundary Committee may reasonably require in connection with any of their functions under this section.

#### **Commencement Information**

**18** S. 8 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## **9 Boundary Committee's review: consultation etc**

- (1) This section applies where the Boundary Committee conduct a review under section 8.
- (2) In conducting the review the Committee must consult—
- (a) the council of any local government area to which the review relates; and
  - (b) such other local authorities, parish councils and other persons as appear to them to have an interest.
- (3) Before making any recommendation to the Secretary of State the Boundary Committee must—
- (a) publish a draft of the recommendation; and
  - (b) take such steps as they consider sufficient to secure that persons who may be interested are informed of—
    - (i) the draft recommendation; and

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- (ii) the period within which representations about it may be made to the Boundary Committee.
- (4) The Boundary Committee—
- (a) must take into account any representations made to them within that period; and
  - (b) if they make any recommendation to the Secretary of State, must inform any person who made such representations—
    - (i) of the recommendation made; and
    - (ii) that representations about the recommendation may be made to the Secretary of State until the end of four weeks beginning with the recommendation date.
- (5) In this section and section 10 “the recommendation date” means the date the recommendation was sent by the Boundary Committee to the Secretary of State.

**Commencement Information**

**I9** S. 9 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

**10 Implementation of recommendations by order**

- (1) Where the Boundary Committee make a recommendation to the Secretary of State under section 8(2), the Secretary of State may do any of the following—
  - (a) by order implement the recommendation, with or without modification;
  - (b) decide to take no action with respect to the recommendation;
  - (c) make a request under section 8 for a further review.
- (2) Where the Boundary Committee make a recommendation to the Secretary of State under section 8(5) the Secretary of State may—
  - (a) make a request under section 8 for a further review; or
  - (b) decide not to make such a request.
- (3) The Secretary of State may not do as mentioned in paragraph (a), (b) or (c) of subsection (1) or paragraph (a) or (b) of subsection (2) before the end of six weeks beginning with the recommendation date (as defined by section 9(5)).
- (4) Before doing as mentioned in any of those paragraphs the Secretary of State may request the Boundary Committee to provide him with information or advice on any matter relating to the recommendation.
- (5) Where they receive such a request the Boundary Committee may provide the information or advice requested.

**Commencement Information**

**I10** S. 10 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)



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## *Implementation of changes*

### **11 Implementation orders: provision that may be included**

- (1) An order under section 7 or 10 may in particular include provision, for the purpose of implementing a proposal or recommendation or in connection with the implementation of a proposal or recommendation, for or with respect to—
  - (a) any of the matters mentioned in subsection (3);
  - (b) any of the matters mentioned in subsection (4) (incidental, consequential etc matters).
- (2) In subsection (1) “implementing” includes implementing with modifications and “implementation” is to be read accordingly.
- (3) The matters referred to in subsection (1)(a) are—
  - (a) the constitution of a new local government area;
  - (b) the abolition of any existing local government area;
  - (c) the boundary of any local government area;
  - (d) whether a county or district is to be metropolitan or non-metropolitan;
  - (e) the establishment, as a county council, district council or London borough council, of an authority for any local government area;
  - (f) the winding up and dissolution of an existing local authority;
  - (g) the transfer to a county council of the functions, in relation to an area, of district councils;
  - (h) the transfer to a district council of the functions, in relation to an area, of a county council.
- (4) The matters referred to in subsection (1)(b) are—
  - (a) the name of any local government area;
  - (b) the name of any local authority;
  - (c) the boundary of any parish;
  - (d) electoral matters within the meaning of section 12;
  - (e) the establishment or membership of public bodies in any area affected by the order and the election of members of such bodies;
  - (f) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of any area affected by the order;
  - (g) the boundary of any police area in England.
- (5) For the purposes of subsection (3)(e)—
  - (a) the “establishment” of an authority as a council for a county includes an existing district council's becoming the county council for the county;
  - (b) the “establishment” of an authority as a council for a district includes an existing county council's becoming the district council for the district.
- (6) The power of the Secretary of State under section 7(1)(a) to implement a proposal with modifications includes power to make provision whose effect is that there will be a single tier of local government for an area (“the area concerned”) that—
  - (a) includes all or part of an area specified in the proposal as one for which there should be a single tier of local government; but
  - (b) is not an area that could itself have been so specified.

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- (7) But subsection (6) does not authorise the area concerned to extend into any area that is currently outside all local government areas.

#### Commencement Information

**III** S. 11 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## 12 Provision relating to membership etc of authorities

- (1) In section 11(4) “electoral matters” means any of the following—
- (a) the total number of members of any local authority or parish council (“councillors”);
  - (b) the number and boundaries of electoral areas for the purposes of the election of councillors;
  - (c) the number of councillors to be returned by any electoral area;
  - (d) the name of any electoral area;
  - (e) the election of councillors for any electoral areas;
  - (f) the order of retirement of councillors;
  - (g) the election of a mayor of a local authority;
  - (h) the election of an executive of a local authority;
  - (i) the appointment by the Secretary of State of members of an existing local authority to be members of a new local authority for a transitional period;
  - (j) the appointment for a transitional period of an executive of a new local authority;
  - (k) the functions of a new local authority, and the discharge of those functions, during a transitional period.
- (2) In subsection (1)(i) to (k)—
- “a new local authority” means a local authority established by the order;
- “a transitional period” means a period before the coming into office of members of the authority elected at the first election after the establishment of the authority.
- (3) In subsection (2) “established” and “establishment” are to be read in accordance with section 11(5).
- (4) An order under section 7 or 10 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 (c. 70) does not apply.
- (5) As soon as practicable after the making of an order under section 7 or 10, the Electoral Commission must consider whether to exercise their power under section 13(3) of the Local Government Act 1992 (c. 19) (power to direct the Boundary Committee to conduct a review of a specified area and recommend whether an electoral change should be made).
- (6) An order of the Electoral Commission under section 17 of the Local Government Act 1992 (c. 19) (electoral change) may, in consequence of any other provision of that order, revoke a provision of an order made under section 7 or 10 of this Act.

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#### Commencement Information

**I12** S. 12 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

### 13 Implementation orders: further provision

- (1) The power to make an order under section 7 or 10 includes (as well as power to make any provision authorised by section 11(1)(b)) power to make any other incidental, consequential, transitional or supplementary provision.
- (2) Subsection (1) is to be read with section 15.
- (3) Any incidental, consequential, transitional or supplementary provision included in an order under section 7 or 10 may relate either to other provisions of the order or to a previous order under section 7 or 10 (and the reference in section 12(2) to “the order” accordingly includes a previous order under section 7 or 10).
- (4) The Secretary of State must exercise his powers under section 11(4)(g) in such a way as to ensure that none of the following is divided between two or more police areas—
  - (a) a county in which there are no district councils;
  - (b) a district;
  - (c) a London borough.

#### Commencement Information

**I13** S. 13 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

### 14 Regulations for supplementing orders

- (1) The Secretary of State may by regulations of general application make incidental, consequential, transitional or supplementary provision—
  - (a) for the purposes or in consequence of any orders under section 7 or 10; or
  - (b) for giving full effect to such orders.
- (2) Subsection (1) is to be read with section 15.
- (3) Regulations under this section have effect subject to any provision included in an order under section 7 or 10.

#### Commencement Information

**I14** S. 14 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

### 15 Incidental etc provision in orders or regulations

- (1) In sections 13 and 14 references to incidental, consequential, transitional or supplementary provision include, in particular, provision—
  - (a) for the transfer of functions, property, rights or liabilities from a local authority or police authority for any area to another local authority or police authority whose area consists of or includes the whole or part of that area;

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- (b) for the transfer of property, rights or liabilities, and of related functions, from an authority which ceases to exist to a residuary body established under section 17;
  - (c) for legal proceedings commenced by or against any body to be continued by or against a body to whom functions, property, rights or liabilities are transferred;
  - (d) for the transfer of staff, compensation for loss of office, pensions and other staffing matters;
  - (e) for treating any body to whom a transfer is made for some or all purposes as the same person in law as the body from whom the transfer is made;
  - (f) with respect to the management or custody of transferred property (real or personal);
  - (g) with respect to the functions, areas of jurisdiction and costs and expenses of any public body or of—
    - (i) any justice of the peace other than a District Judge (Magistrates' Courts);
    - (ii) any coroner or keeper of the rolls;
    - (iii) any lord-lieutenant, lieutenant or high sheriff; or
    - (iv) any other officers (including police officers) within the area of any local authority affected by an order under section 7 or 10;
  - (h) with respect to the functions of any District Judge (Magistrates' Courts);
  - (i) with respect to charter trustees;
  - (j) equivalent to any provision that could be contained in an agreement under section 16 (agreements about incidental matters).
- (2) Any order under section 7 or 10 or regulations under section 14 may for any incidental, consequential, transitional or supplementary purpose—
- (a) modify, exclude or apply (with or without modifications) any enactment;
  - (b) repeal or revoke any enactment with or without savings.
- (3) In subsection (2)—
- “enactment” includes—
- (a) any enactment contained in this Act (other than a provision of this Part) or in an Act passed after this Act;
  - (b) any instrument made at any time under an enactment (including an enactment contained in this Act or in an Act passed after this Act);
  - (c) any charter, whenever granted;
- “modify” includes amend.

#### **Commencement Information**

**I15** S. 15 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## **16 Agreements about incidental matters**

- (1) Any public bodies affected by an order under section 7 or 10 may from time to time make agreements with respect to—
- (a) any property, income, rights, liabilities and expenses (so far as affected by the order) of the parties to the agreement;
  - (b) any financial relations between the parties to the agreement.

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- (2) Such an agreement may in particular provide—
  - (a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;
  - (b) for the making of payments by any party to the agreement in respect of—
    - (i) property, rights and liabilities so transferred or retained;
    - (ii) such joint use; or
    - (iii) the remuneration or compensation payable to any person;
  - (c) for any such payment to be made by instalments or otherwise;
  - (d) for interest to be charged on any such instalments.
- (3) In default of agreement about any disputed matter, the matter is to be referred to the arbitration of a single arbitrator—
  - (a) agreed on by the parties; or
  - (b) in default of agreement, appointed by the Secretary of State.
- (4) The arbitrator's award may make any provision that could be contained in an agreement under this section.
- (5) In subsection (3) “disputed matter” means any matter that—
  - (a) could be the subject of provision contained in an agreement under this section; and
  - (b) is the subject of a dispute between two or more public bodies that is not resolved by or under any order or regulations under this Chapter.
- (6) In this section “public body” includes a parish council.

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

- C1** [S. 16](#) applied (with modifications) by 1972 c. 70, s. 12(2) (as amended) (1.11.2007 for E.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 1 para. 11\(3\)\(a\)](#); [S.I. 2007/3136](#), art. 2(b)

**Commencement Information**

- I16** [S. 16](#) in force at 1.11.2007 for E. by [S.I. 2007/3136](#), art. 2(a)

## 17 Residuary bodies

- (1) The Secretary of State may by order establish one or more bodies corporate (“residuary bodies”) for the purpose of taking over any property, rights or liabilities, and any related functions, of local authorities which cease to exist by virtue of orders under section 7 or 10.
- (2) An order under subsection (1) may—
  - (a) make provision with respect to the constitution and membership of a residuary body;
  - (b) make provision with respect to the powers of a residuary body to make levies and to borrow and lend money and the treatment and distribution of capital and other money by such a body;
  - (c) make provision with respect to the keeping and auditing of accounts of a residuary body;

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

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

- (d) make provision with respect to directions which may be given by the Secretary of State in relation to the carrying out by a residuary body of any of its functions;
  - (e) make provision enabling the Secretary of State to require a residuary body to submit to him a scheme for the winding up of the body and the disposal of its property, rights and liabilities and related functions.
- (3) The Secretary of State may by order provide—
- (a) for the transfer to any other body or bodies (including any body or bodies corporate established under the order for the purpose) of any property, rights or liabilities, and any related functions, of a residuary body; and
  - (b) for giving effect (with or without modifications) to any scheme submitted to him under a provision made by virtue of subsection (2)(e) and for the dissolution of a residuary body.
- (4) An order under this section may include incidental, consequential, transitional or supplementary provision, including in particular provision of a kind mentioned in paragraphs (c) to (f) of section 15(1).
- (5) Section 15(2) and (3) (power to apply etc enactments) apply to an order under this section as to an order under section 7.

#### **Commencement Information**

**I17** S. 17 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## **18 Staff commissions**

- (1) The Secretary of State may by order establish one or more staff commissions for the purpose of—
- (a) considering and keeping under review the arrangements for the recruitment of staff by relevant authorities affected by orders under this Chapter and for the transfer in consequence of any such order of staff employed by such authorities;
  - (b) considering such staffing problems arising in consequence of such an order, and such other matters relating to staff employed by any such authority, as may be referred to the staff commission by the Secretary of State; and
  - (c) advising the Secretary of State on the steps necessary to safeguard the interests of such staff.
- (2) Such a commission may be established for the whole or any part of England.
- (3) The Secretary of State may give directions to a staff commission with respect to their procedure.
- (4) The Secretary of State may give directions to any relevant authority affected by an order under this Chapter with respect to—
- (a) the provision of any information requested and the implementation of any advice given by a staff commission;
  - (b) the payment by such an authority of any expenses incurred by a staff commission in doing anything requested by the authority.

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

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

- (5) Any expenses incurred by a staff commission under this section and not recovered from a relevant authority shall be paid by the Secretary of State out of money provided by Parliament.
- (6) The Secretary of State may by order provide for the winding up of any staff commission established under this section.
- (7) A direction under this section may be varied or revoked by a subsequent direction.
- (8) In this section “relevant authority” means—
  - (a) a local authority; or
  - (b) a residuary body established under section 17.

#### **Commencement Information**

**I18** S. 18 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

### **19 Certain county councils to be billing authorities**

- (1) Where an order under this Chapter transfers the functions of district councils in relation to any area to a council for a county consisting of that area, the county council—
  - (a) shall, for any financial year beginning at the same time as or after that transfer, be a billing authority for the purposes of Part 1 of the Local Government Finance Act 1992 (c. 14) in relation to the area;
  - (b) shall not, for any such year, be a major precepting authority for those purposes.
- (2) This section does not limit any power to make provision by order under this Chapter or any power to make incidental, consequential, transitional or supplementary provision in connection with the provisions of any such order.
- (3) In this section “financial year” means 12 months beginning with 1 April.

#### **Commencement Information**

**I19** S. 19 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

### *Supplementary*

### **20 Correction of orders**

- (1) Where—
  - (a) an order under any provision of this Chapter has been made by the Secretary of State, and
  - (b) the Secretary of State is satisfied that there is a mistake in the order which cannot be rectified by a subsequent order made under that provision by virtue of section 14 of the Interpretation Act 1978 (c. 30) (power to amend),the Secretary of State may rectify the mistake by order under this section.

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

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

- (2) For the purposes of this section, a “mistake” in an order includes a provision contained in or omitted from the order in reliance on inaccurate or incomplete information supplied by any public body.
- (3) In subsection (2) “public body” includes a parish council.

#### Commencement Information

**I20** S. 20 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## 21 Pre-commencement invitations etc

- (1) In this section a “pre-commencement invitation” means an invitation given by the Secretary of State before the commencement of this Chapter which, after that commencement, could have been given under the power in section 2.
- (2) If before the commencement of this Chapter—
- a pre-commencement invitation was given,
  - guidance as to what a proposal should seek to achieve, or as to matters that should be taken into account in formulating a proposal, was given by the Secretary of State in connection with such an invitation,
  - a proposal was made in response to such an invitation, or
  - consultation was carried out by the Secretary of State in relation to such a proposal,
- it is immaterial that the invitation or guidance was given, the proposal made, or the consultation carried out, before rather than after the commencement of this Chapter.
- (3) Accordingly (and without prejudice to the generality of subsection (2))—
- any reference in this Chapter to an invitation under section 2 includes a pre-commencement invitation;
  - any reference in this Chapter to a proposal made by virtue of section 2 includes a proposal (whenever made) made in response to a pre-commencement invitation;
  - any reference in this Chapter to the Secretary of State's receiving a proposal in response to an invitation under section 2 includes his receiving before the commencement of this Chapter a proposal made in response to a pre-commencement invitation.

#### Commencement Information

**I21** S. 21 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## 22 Consequential amendments

Schedule 1 (amendments consequential on this Chapter) has effect.

#### Commencement Information

**I22** S. 22 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)



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

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

## 23 Definitions for purposes of Chapter 1

(1) In this Chapter—

- “the Boundary Committee” means the Boundary Committee for England;
- “local authority” means a county council in England, a district council in England or a London borough council;
- “local government area” means a county in England, a district in England or a London borough;
- “principal authority” has the meaning given by section 1;
- “public body” includes—
  - (a) a local authority;
  - (b) a police authority;
  - (c) a residuary body established under section 17;
  - (d) a joint board, or joint committee, on which a local authority is represented;
  - (e) a levying body within the meaning of section 74(1) of the Local Government Finance Act 1988 (c. 41);
- “single-tier” has the meaning given by subsection (2);
- “staff” includes officers and employees;
- “two-tier” has the meaning given by subsection (2);
- “Type A”, “Type B”, “Type C” and “combined”, in relation to a proposal, have the meanings given by section 2.

(2) For the purposes of this Chapter an area is—

- (a) “single-tier” if there is a single tier of local government for it (within the meaning of section 1) or it is a London borough; and
- (b) “two-tier” if it is—
  - (i) a district for which there is a district council and in relation to which a county council has the functions of a county council; or
  - (ii) a county for which there is a county council and in which there are districts all of which have district councils.

(3) Any reference in this Chapter to a proposal “in response to” an invitation or direction under section 2 is to a Type A, Type B, Type C or combined proposal which—

- (a) is in response to such an invitation or direction; and
- (b) is in accordance with the invitation or direction and section 3(4).

(4) Any reference in this Chapter, however framed, to a body affected by an order includes a body—

- (a) whose area or functions are affected by the order;
- (b) which is to cease to exist in pursuance of the order; or
- (c) which is established by or in consequence of the order.

### Commencement Information

**I23** S. 23 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

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## CHAPTER 2

### CONTROL OF DISPOSALS ETC

#### 24 Authorities dissolved by orders: control of disposals, contracts and reserves

- (1) The Secretary of State may direct that, with effect from a date specified in the direction, a relevant authority may not without the written consent of a person or persons so specified—
- (a) dispose of any land if the consideration for the disposal exceeds £100,000;
  - (b) enter into any capital contract—
    - (i) under which the consideration payable by the relevant authority exceeds £1,000,000; or
    - (ii) which includes a term allowing the consideration payable by the relevant authority to be varied;
  - (c) enter into any non-capital contract under which the consideration payable by the relevant authority exceeds £100,000, where—
    - (i) the period of the contract extends beyond a date specified in the direction; or
    - (ii) under the terms of the contract, that period may be extended beyond that date; or
  - (d) include an amount of financial reserves in a calculation under section 32(3) or 43(3) of the Local Government Finance Act 1992 (c. 14).
- (2) In this Chapter “relevant authority” means a local authority—
- (a) which by virtue of an order under section 7 or 10 is to be dissolved; and
  - (b) which is specified, or of a description specified, in the direction.
- (3) In this section—
- “capital contract” means a contract as regards which the consideration payable by the relevant authority would be capital expenditure for the purposes of Chapter 1 of Part 1 of the Local Government Act 2003 (c. 26) (capital finance);
- “non-capital contract” means a contract which is not a capital contract.
- (4) A person specified in the direction as a person whose consent is required may be the Secretary of State or such authority or other person as he thinks appropriate; and the direction may specify different persons—
- (a) in relation to different matters for which consent is required;
  - (b) in relation to different relevant authorities or descriptions of relevant authority.

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#### Commencement Information

I24 S. 24 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

#### 25 Directions: further provision about reserves

- (1) A direction under section 24—
- (a) may provide that the consent of the person or persons specified in the direction is not required for the inclusion, in a calculation under section 32(3) or 43(3) of

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

the Local Government Finance Act 1992, of financial reserves of a description specified in the direction;

- (b) may, in relation to any authority or description of authority, provide that that consent is not required for the inclusion in such a calculation of an amount of financial reserves not exceeding an amount specified in or determined under the direction.

- (2) If a direction contains provision by virtue of subsection (1), the reference in section 24(1)(d) to an amount of financial reserves is to be read as a reference to an amount of financial reserves other than an amount permitted by the direction.

#### **Commencement Information**

**I25** [S. 25](#) in force at 1.11.2007 for E. by [S.I. 2007/3136](#), [art. 2\(a\)](#)

## **26 Directions: supplementary**

- (1) In this section “direction” means a direction under section 24.
- (2) A consent for the purposes of a direction may be given—
- (a) in respect of a particular disposal or contract, or in respect of disposals or contracts of any description;
- (b) unconditionally or subject to conditions.
- (3) The following enactments have effect subject to any direction—
- (a) section 123 of the Local Government Act 1972 (c. 70) (power to dispose of land);
- (b) any other enactment relating to the disposal of land by local authorities.
- (4) The consent required by a direction is in addition to any consent required by the enactments mentioned in subsection (3)(a) and (b).
- (5) Where the consideration or any of the consideration under a contract is not in money, the limits specified in a direction by virtue of section 24(1)(a) to (c) apply to the value of the consideration.
- (6) Where—
- (a) a question arises in relation to a direction as to the value of any consideration, and
- (b) the relevant authority concerned and the person or persons specified under section 24(1) fail to reach agreement,
- the value is to be determined by the Secretary of State.
- (7) A direction may be varied or revoked by a subsequent direction.

#### **Commencement Information**

**I26** [S. 26](#) in force at 1.11.2007 for E. by [S.I. 2007/3136](#), [art. 2\(a\)](#)

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

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

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## 27 Consideration to be taken into account for purposes of direction

- (1) In determining whether the limit specified in a direction by virtue of section 24(1)(a) is exceeded in the case of a disposal of land by a relevant authority, the consideration with respect to any other disposal of land made after 31 December 2006 by the relevant authority is to be taken into account.
- (2) In determining whether a limit specified in a direction by virtue of section 24(1)(b) or (c) is exceeded in the case of a contract entered into by a relevant authority (“the contract in question”), the consideration payable by the relevant authority under any other relevant contract shall be taken into account.
- (3) For the purposes of subsection (2) a “relevant contract” means a contract which is either or both—
  - (a) a contract entered into after 31 December 2006 by the relevant authority and the person with whom the contract in question is entered into;
  - (b) a contract entered into after that date by the relevant authority which relates to the same or a similar description of matter as that to which the contract in question relates.

### Commencement Information

**I27** S. 27 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

## 28 Contraventions of direction

- (1) A disposal made in contravention of a direction under section 24 is void.
- (2) A contract entered into by an authority (“the old authority”) in contravention of a direction under section 24 is not enforceable against a successor.
- (3) In subsection (2) a “successor” means a local authority (other than the old authority)—
  - (a) which is established by an order under section 7 or 10; and
  - (b) whose area consists of or includes the whole or part of the area of the old authority.
- (4) A contract which apart from this subsection would be a certified contract for the purposes of the Local Government (Contracts) Act 1997 (c. 65) is not a certified contract for those purposes if it is entered into in contravention of a direction under section 24.
- (5) If an authority includes financial reserves in a calculation under section 32(3) of the Local Government Finance Act 1992 (c. 14) in contravention of a direction under section 24, the authority is to be treated for the purposes of section 30(8) of that Act as not having made the calculations required by Chapter 3 of Part 1 of that Act.
- (6) If an authority includes financial reserves in a calculation under section 43(3) of that Act in contravention of a direction under section 24, the authority is to be treated for the purposes of section 40(7) of that Act as not having made the calculations required by Chapter 4 of Part 1 of that Act.

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

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1. (See end of Document for details)*

**Commencement Information**

**I28** S. 28 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

**29 Power to amend**

- (1) The Secretary of State may by order—
- (a) substitute another sum for any sum for the time being specified in section 24(1);
  - (b) substitute another date for the date for the time being specified in section 27(1) and (3).
- (2) An order under this section may include transitional or saving provision.

**Commencement Information**

**I29** S. 29 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

**30 Definitions for purposes of Chapter 2**

- (1) In this Chapter—
- “local authority” means a county council in England, a district council in England or a London borough council;
  - “relevant authority” has the meaning given by section 24(2).
- (2) References in this Chapter to disposing of land include references to—
- (a) granting or disposing of any interest in land;
  - (b) entering into a contract to dispose of land or grant or dispose of any such interest;
  - (c) granting an option to acquire any land or any such interest.

**Commencement Information**

**I30** S. 30 in force at 1.11.2007 for E. by S.I. 2007/3136, art. 2(a)

**Status:**

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

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, Part 1.