



Local Government and Public Involvement in Health Act 2007

2007 CHAPTER 28

PART 7

BEST VALUE

Powers to modify enactments etc

141 Consultation with and consent of Welsh Ministers

- (1) In section 16 of the Local Government Act 1999 (power to modify enactments obstructing compliance with best value duties and confer new powers), after subsection (3A) insert—

“(3B) In exercising a power under this section, the Secretary of State must not make provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.

(3C) In exercising a power under this section, the Secretary of State—

- (a) must not make provision amending, or modifying or excluding the application of, Measures or Acts of the National Assembly for Wales without the consent of the National Assembly for Wales;
- (b) must not make provision amending, or modifying or excluding the application of, subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.

(3D) Subsection (3C) does not apply to the extent that the Secretary of State is making incidental or consequential provision.”

- (2) In section 97 of the Local Government Act 2003 (c. 26) (power to modify enactments in connection with charging or trading)—

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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, Cross Heading: Powers to modify enactments etc. (See end of Document for details)

- (a) for subsection (7) substitute—

“(7A) In exercising a power under subsection (1) or (2), the Secretary of State must not make provision which has effect in relation to Wales unless he has consulted the Welsh Ministers.

- (7B) In exercising a power under subsection (1) or (2), the Secretary of State—

- (a) must not amend, or repeal or disapply, Measures or Acts of the National Assembly for Wales without the consent of the National Assembly for Wales;
- (b) must not amend, or revoke or disapply, subordinate legislation made by the Welsh Ministers (or the National Assembly for Wales established under the Government of Wales Act 1998) without the consent of the Welsh Ministers.

(7C) Subsection (7B) does not apply to the extent that the Secretary of State is making incidental or consequential provision.”;

- (b) in subsection (8), for “National Assembly for Wales” substitute “ Welsh Ministers ”.

- (3) In section 98 of that Act (procedure for orders under section 97), in subsection (2)—

- (a) for “subsection (7)(a)” substitute “ subsection (7A) ”;
- (b) in paragraph (d) for “National Assembly for Wales” substitute “ Welsh Ministers ”.

Commencement Information

II S. 141 in force at 30.12.2007, see s. 245(2)

142 Power of Welsh Ministers to modify enactments obstructing best value etc

- (1) In section 16 of the Local Government Act 1999 (c. 27) (power to modify enactments and confer new powers)—

- (a) in the title, after “Power” insert “ of Secretary of State ”;
- (b) after subsection (5) insert—

“(6) In this section—

- (a) “enactment” includes subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978);
- (b) references to a best value authority do not include a Welsh best value authority.”

- (2) After section 17 of that Act insert—

“17A Power of Welsh Ministers to modify enactments and confer new powers

- (1) If the Welsh Ministers think that an enactment prevents or obstructs compliance by Welsh best value authorities with the requirements of this Part they may by order make provision modifying or excluding the application of the enactment in relation to—

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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, Cross Heading: Powers to modify enactments etc. (See end of Document for details)*

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

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17B Orders under section 17A: procedure

- (1) Before the Welsh Ministers make an order under section 17A they shall consult such authorities or persons as appear to them to be representative of interests affected by their proposals.
 - (2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 17A they shall lay before the National Assembly for Wales a document explaining their proposals and, in particular—
 - (a) setting them out in the form of a draft order, and
 - (b) giving details of consultation under subsection (1).
 - (3) Where a document relating to proposals is laid before the National Assembly for Wales under subsection (2), no draft of an order under section 17A to give effect to the proposals (with or without modification) shall be laid before the National Assembly for Wales until after the expiry of the period of sixty days beginning with the day on which the document was laid.
 - (4) In calculating the period mentioned in subsection (3) no account shall be taken of any time during which the National Assembly is dissolved or is in recess for more than four days.
 - (5) In preparing a draft order under section 17A the Welsh Ministers shall consider any representations made during the period mentioned in subsection (3) above.
 - (6) A draft order laid before the National Assembly for Wales in accordance with section 17A(7) shall be accompanied by a statement of the Welsh Ministers giving details of—
 - (a) any representations considered in accordance with subsection (5) above, and
 - (b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2) above.
 - (7) Nothing in this section applies to an order under section 17A which is made only for the purpose mentioned in section 17A(8).”
- (3) Until the commencement of section 144(1), in the provisions inserted by this section references to a Welsh best value authority have effect as if they were references to an authority which is a best value authority in Wales for the purposes of Part 1 of the Local Government Act 1999 (c. 27), other than a police authority for a police area in Wales.

Commencement Information

I2 S. 142 in force at 30.12.2007, see s. 245(2)

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