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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

**The Cheshire (Structural Changes) Order 2008**

**PART 3**

**SHADOW AUTHORITIES AND THEIR FUNCTIONS**

**Duties of shadow authorities: executive arrangements and code of conduct**

7.—(1) At its first meeting<sup>(1)</sup>, each shadow authority shall discharge the duties specified or referred to—

- (a) in paragraph (2); and
- (b) in section 51 of the 2000 Act (duty of relevant authorities to adopt codes of conduct), as applied by paragraph (5),

and it shall discharge those duties in accordance with paragraphs (3) and (6), respectively.

(2) It shall be the duty of a shadow authority to create a leader and cabinet executive within the meaning of Part 2 of the Local Government Act 2000 (arrangements with respect to executives etc), as originally enacted<sup>(2)</sup> (“the shadow executive”).

- (3) The shadow authority shall adopt the proposals made to it under article 19—
  - (a) without amendment or modification, or
  - (b) subject to such amendments or modifications as it thinks fit.

(4) With the exception of sections 25 (proposals), 26 (proposals not requiring referendum), 27 (referendum in case of proposals involving elected mayor), 28 (approval of outline fall-back proposals) and 29 (operation of, and publicity for, executive arrangements) the provisions of Part 2 of the 2000 Act, to the extent that they relate to a leader and cabinet executive, shall have effect in relation to each shadow authority as if—

- (a) its executive were a leader and cabinet executive of a district council;
- (b) the executive arrangements that it makes were executive arrangements of a district council<sup>(3)</sup>;
- (c) section 15 authorised its executive to delegate functions not only to officers of the shadow authority but also—
  - (i) in the case of the shadow executive for Cheshire East, to officers of the County Council or of any of the East Cheshire councils;
  - (ii) in the case of the shadow executive for Cheshire West and Chester, to officers of the County Council or of any of the West Cheshire councils;

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<sup>(1)</sup> See paragraphs (11) and (12) of article 13.

<sup>(2)</sup> 2000 c.22. Section 11 was amended by section 62 of the Local Government and Public Involvement in Health Act 2007 (c.28). Subsection (3) of that section, as originally enacted, defines a leader and cabinet executive.

<sup>(3)</sup> In Part 2 of the Local Government Act 2000, “executive arrangements” has the meaning given by section 10; see the definition in section 48(1). Section 48(1) defines “local authority”, in relation to England, as including a district council.

- (d) for the purposes of the application of Part 1 of Schedule 4 to the 2007 Act (new arrangements for executives: transitional provision: old-style leader and cabinet executive), its executive had been operating at the relevant time within the meaning of that Part of that Schedule<sup>(4)</sup>.
- (5) Part 3 of the 2000 Act (conduct of local government members and employees)<sup>(5)</sup> shall apply in relation to each shadow authority as if—
- (a) it were a district council<sup>(6)</sup>;
  - (b) references to co-opted members were omitted; and
  - (c) in section 51—
    - (i) in subsection (1), for “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”, there were substituted “at the first meeting of an authority that is a shadow authority within the meaning of the Cheshire (Structural Changes) Order 2008”; and
    - (ii) in subsection (5), “(1) or” were omitted.
- (6) In complying with subsection (1) of section 51 of the 2000 Act, each shadow authority shall make such amendments or modifications to the proposals submitted to it under article 20 as it considers necessary to secure that, when adopted, the code will satisfy the requirements of subsection (4) of that section.

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(4) *See, in particular,* the definitions of “old-style leader and cabinet executive” and “relevant time” in paragraph 5 of Part 1 of Schedule 4.

(5) Part 3 was amended by Chapter 1 of Part 10 of the Local Government and Public Involvement in Health Act 2007 (c.28). *See, in particular,* the amendments to section 51 in section 183(3) of that Act.

(6) Part 3 applies in relation to relevant authorities; see the definition of “relevant authority” in section 49(6).