

LOCAL GOVERNMENT ACT 1999

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part I: Best Value

Sections 21-29: General provisions

55. *Section 21* repeals the legislation requiring some best value authorities to subject certain functions to CCT, this repeal taking effect from 2 January 2000. It also provides powers for the Secretary of State to issue guidance to best value authorities with regard to the interim period between 2 January 2000 and the date when the general duty of best value will be applied. This guidance will cover the way in which they exercise their functions and might include, for example, a consideration of how procurement and contractual arrangements should be approached in the light of the imminent application of the duty of best value.
56. *Section 22* makes amendments to certain provisions in Parts III and IV of the Audit Commission Act 1998, in the light of the Commission's new functions under best value. It widens the application of section 33 of the 1998 Act by amending it to refer to the exercise of local authority *functions*, rather than merely the provision of local authority *services*. It also amends the provisions at section 49 of that Act to allow the Commission to disclose information relating to best value authorities for the purposes of discharging its functions in relation to best value as provided for by the Local Government Act 1999, particularly with regard to best value inspections as set out for sections 10-13 above.
57. *Section 22* also makes provision for the Housing Corporation in England (in Wales the functions are exercised by the Secretary of State, and in due course the National Assembly) to provide advice and assistance to the Audit Commission in relation to the exercise of the Commission's best value functions, where the Audit Commission requests it. It also makes provision for the Corporation to be paid by the Commission for any such advice or assistance it provides.
58. *Section 23* provides the Secretary of State with a power to create a statutory accounting framework which will apply to best value authorities. In doing so, it closely, though not exactly, follows the model laid out at section 27 of the Audit Commission Act 1998. Section 23 provides the Secretary of State with powers
- to regulate how best value authorities prepare, keep and certify accounts;
 - to specify how accounts should be deposited, published and made available for public inspection.
59. It complements the rather wider powers relating to publication of information contained in section 20. Before using section 23 powers, the Secretary of State is obliged to consult with the Audit Commission, best value authorities or persons appearing to him to represent them, and such bodies of accountants as he deems appropriate.
60. *Section 24* makes changes to the Police Act 1996 which are designed to strengthen collaboration between police forces and police authorities, and place the rôle of Her

Majesty's Inspectorate of Constabulary (HMIC) in best value on a clear statutory footing. *Subsection 24(1)* adds to the provisions at section 8(2) of the 1996 Act a specific requirement that Chief Constables, in preparing the first draft of a police authority's local policing plan, shall include particulars of any action proposed for the purpose of complying with the police authority's duty to achieve best value.

61. *Subsections 24(2) and 24(3)* extend HMIC's powers of inspection for the purposes of best value by amending section 54 and 55 of the Police Act 1996. Section 54 of the 1996 Act, in its current form, provides HMIC with a power to inspect police forces only. Police *forces* are not best value authorities, whereas police *authorities* are. Section 24 therefore provides that HMIC may inspect police authorities, but this power of inspection extends only to a consideration of the extent to which police authorities are complying with the duty of best value.
62. The Government made it clear in its Local Government White Papers that it would ensure that different inspectorates worked together to develop a consistent approach to best value inspections. Paragraph 7.44 of the English White Paper (7.58 in Wales) stated that the Government "will take a power to enable the Secretary of State to make such arrangements as necessary in consultation with the inspectorates to ensure the smooth and efficient operation of the inspection process".
63. *Section 25* provides that the persons and bodies it describes are, when arranging and carrying out best value inspections, to have regard to any guidance which the Secretary of State issues for the purposes of securing their co-ordination. The bodies in question include the Audit Commission, inspectors of fire brigades and constabulary, the Chief Inspectors of Schools in England and Wales, and inspectors appointed under the Local Authority Social Services Act 1970, National Health Service and Community Care Act 1990, Children Act 1989 and Social Security Administration Act 1992 respectively. Section 25 also provides the Secretary of State with a power to amend this list of persons and bodies in future.
64. *Section 26* provides the Secretary of State with a general power of guidance in respect of all the provisions in Part I of the Act. It allows the Secretary of State, in issuing guidance to best value authorities about the manner in which they comply with best value, to issue both general guidance, capable of widespread application, as well as guidance aimed specifically at one or more authorities (which could, for instance, be targeted at bodies with a particular range of functions, such as the GLA).
65. It also allows the Secretary of State to issue different guidance to different authorities, thus allowing flexibility, for instance, to issue guidance aimed at police authorities which differed in some respects from that issued to local authorities generally. Section 26 also provides that the Secretary of State, before issuing any relevant statutory guidance, must consult the authorities concerned or those persons who appear to him to represent them.
66. This general guidance power is designed to complement the more specific powers of guidance which are set out elsewhere in Part I, e.g. in respect of the setting of performance targets and the conduct of best value reviews. The possible issues which it might be used to address will include, for instance, how best value authorities tackle cross-cutting issues such as social exclusion, equality and sustainable development.
67. *Section 27* makes arrangements for the commencement of the provisions in Part I of the Act. As a general rule, the Act provides that provisions will commence automatically 12 months after Royal Assent, unless either the Secretary of State or National Assembly for Wales choose to commence them earlier. However, not all provisions in the Act are exercisable by the National Assembly, so section 27 provides specifically that:
 - the Secretary of State may make provision for early commencement in Wales in respect of the best value authorities mentioned at subparagraphs 1(1)(d) and subparagraphs 1(1)(e) (i.e. police and fire authorities). The locus to act in respect

*These notes refer to the Local Government Act 1999
(c.27) which received Royal Assent on 27 July 1999*

of these bodies is reserved to the Secretary of State (in this case to the Home Secretary), rather than the National Assembly;

- the Secretary of State may provide for sections 14, 16 to 18 and 24 to be brought into force earlier than the automatic commencement date. Again, the powers set out in these clauses are reserved to the relevant Secretary of State, and not exercisable by the National Assembly.

68. *Section 29* provides that, in relation to the application of Part I to Wales, the Parliamentary procedures in that Part are to be omitted, and references to the National Assembly for Wales are to be substituted for references to the Secretary of State. These changes do not apply in relation to police and fire authorities. Nor do they apply in relation to the Secretary of State powers in sections 14 (inspections of housing benefit and council tax benefit), 16 and 17 (powers to modify enactments and confer new powers), 18 (contracting out of best value authority functions), 24 (amendments to the Police Act 1996) and 27 (commencement).