These notes refer to the Local Government and Public Involvement in Health Act 2007 (c.28) which received Royal Assent on 30 October 2007

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: Miscellaneous

Exercise of functions by members of local authorities in England

Section 236: Exercise of functions by local councillors in England

565. This section provides that an authority may make arrangements for individual members to exercise functions of the authority in relation to the electoral division or ward for which the member is elected. The section applies to county councils, district councils and London borough councils. The Secretary of State may by order exclude functions from such arrangements, or place conditions on how such a function is exercised. Where the function to be included in the arrangements is the responsibility of the executive of the authority, it is for the senior executive member (i.e. leader) to make the arrangements. In all other cases, it is for the authority itself.

Section 237: Exercise of functions under section 236: records

566. The purpose of this section is to ensure transparency and accountability. It empowers the Secretary of State to make regulations to ensure that records are kept of decisions or actions taken by councillors under section 236, and that such records are deposited with the local authority. The local authority must make the records available for inspection by members of public. If certified in accordance with section 41(2C) of the Local Government (Miscellaneous Provisions) Act 1976 (inserted by*subsection (3)*), copies of such records are evidence, for the purposes of court proceedings, of the terms of the decision, or nature of the action, which they describe.

Accounting

Section 238: Amendments relating to capital finance and accounting practices

567. The "prudential" capital finance system, in Part 1 of the Local Government Act 2003, is the framework within which authorities finance their capital expenditure.

568. Section 21 of the 2003 Act contains a power to make regulations on local authorities' accounting practices. This has been used, for example, to make regulations about providing for debt repayment. This section amends section 21 to give the Secretary of State a power to issue guidance on accounting practices, which authorities would be required to have regard to. The power is likely to be first used in relation to the regulations on debt repayment.

Contracting Out

Section 239: Contracting out

569. The Deregulation and Contracting Out Act 1994 gives the Secretary of State the power to make an order enabling bodies which are local authorities for the purposes of that Act to contract out the functions specified in the order. One such order was made in 1996 to permit the contracting out of investment functions – something which authorities often wish to contract out to private-sector specialists. The Act will bring the definition of "local authority" for the purposes of the Deregulation and Contracting Out Act 1994 broadly in line with the definition of a "local authority" used for the purposes of the "prudential" capital finance system, in Part 1 of the Local Government Act 2003. This will in particular enable a new order which applies to a wider class of bodies to be made on the contracting out of investment functions.