
EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences further provisions of the Local Government and Public Involvement in Health Act 2007 (c.28) (“the Act”).

In Part 4 of the Act (parishes), sections 76 and 77 are commenced partially. The partial commencement of section 76 enables the Secretary of State to make regulations about the appointment of councillors and the holding of office after appointment under that section. The partial commencement of section 77 enables the Secretary of State to make an order prescribing conditions which must be met by a parish council that wishes to exercise the power to promote well-being under section 2 of the Local Government Act 2000.

Part 7 of the Act (best value) is commenced as follows.

Section 136 amends section 1 of the Local Government Act 1999 (“the 1999 Act”) so that parish councils and community councils are no longer subject to the duties of best value and makes consequential amendments as a result of the change.

Section 137 amends section 3 of the 1999 Act to introduce a new general power of guidance in relation to the duty of best value. This has been commenced only in relation to England and police authorities in Wales.

Section 138 introduces a new duty (section 3A of the 1999 Act) that requires certain best value authorities to involve representatives of local persons in the exercise of its functions.

Section 139 amends section 4 of the 1999 Act so that the provisions in relation to best value indicators and standards no longer apply in relation to English best value authorities and police authorities in Wales. Section 139 also amends section 6 of the 1999 Act so that the requirement to produce a best value performance plan no longer applies in relation to certain English best value authorities. The requirement for police authorities in England and Wales to prepare best value performance plans was removed by section 4 of the Police and Justice Act 2006 (c.48).

The saving contained in article 7(3) preserves the existing legal framework relating to best value performance indicators and standards in respect of police authorities in England and Wales until 31st March 2010. The saving in article 7(1) preserves the requirement for best value authorities in England (other than police authorities) to produce and publish a very limited performance plan for the financial year 2007/8.

Copies of the ODPM Circulars referred to in article 7(2) may be obtained by contacting Geoff Salvatore at the Department for Communities and Local Government, Eland House, Bressendon Place, London, SW1E 5DU.

Section 140 repeals the requirement that best value authorities in England carry out best value reviews. The requirement for police authorities in England and Wales to carry out best value reviews was removed by section 4 of the Police and Justice Act 2006.

Section 144 makes amendments to the 1999 Act and other legislation consequential on the changes to best value set out in Part 7 of the Act.

This Order also brings into force Part 9 of the Act together with related consequential amendments and repeals in Schedules 4 and 18 to the Act. Part 9 amends provisions in Part 3 of the Local Government Act 1974 (c.7) which relates to the Commission for Local Administration in England, (commonly known as “the Local Government Ombudsman”).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

The new provisions change the terms on which Local Commissioners are appointed, and the powers and procedures they follow. Article 7 of the Order makes transitional and savings provisions to preserve the existing framework in relation to Local Commissioners appointed before the commencement date, and in relation to complaints received before then.

Part 11 of the Act (joint waste authorities) is commenced save for section 210 which will be separately commenced, in respect of Wales, by the Welsh Ministers.

Section 205 allows two or more local authorities to submit a proposal to the Secretary of State for the creation of a joint waste authority to discharge some, or all, of their waste functions through that authority. It also provides that the Secretary of State may issue guidance and Regulations on proposals for joint waste authorities.

Section 206 requires local authorities to consult relevant electors and any interested person in their area on a draft of a proposal.

Section 207 allows the Secretary of State to implement proposals by order, with or without modifications. It also enables the Secretary of State to dissolve a joint waste authority where all the member authorities have requested or where the Secretary of State considers it necessary to do so.

Section 208 sets out the requirements for membership of joint waste authorities.

Section 209 amends the Waste and Emissions Trading Act 2003 (c.33) to make joint waste authorities in England that have a waste disposal function, waste disposal authorities for the purposes of the 2003 Act. It also gives effect to other consequential amendments specified in Schedule 13 to the Act.

Section 211 defines the terms “joint waste authority” and “local authority” used in Part 11.

This Order also commences Part 13 (the Valuation Tribunal for England) and Schedules 15 and 16 in part.

Section 219(1) (which introduces Schedule 15) and section 220(1) (which introduces Schedule 16) are commenced in so far as provisions in those Schedules are themselves commenced by this Order. Section 220(2) to (4) (which enables the Secretary of State to make regulations in consequence of, or for the purpose of giving full effect to, Part 13) is also commenced.

Before the jurisdiction of the valuation tribunals in England can be transferred to the Valuation Tribunal for England (“the VTE”) the President and any Vice-Presidents of the VTE must be appointed. The provisions in Schedules 15 and 16 which are commenced by this Order facilitate the appointment of those officers and the exercise by them of certain functions preparatory to the transfer of that jurisdiction. In particular, paragraphs 14 to 16 of Schedule 16 have been commenced in order to provide for the appointment of the President and Vice-Presidents of the VTE by the Lord Chancellor.

Article 7 of the Order contains transitory provisions relevant to Part 13. The Local Government Act 2003 (“the 2003 Act”) established the Valuation Tribunal Service (“the VTS”) and gave that body certain administrative functions in relation to the valuation tribunals in England. Once the jurisdiction of the valuation tribunals in England has been transferred to the VTE the VTS will exercise those functions in relation to the VTE. Until that occurs, article 7 modifies the 2003 Act to take account of the appointment of the President and Vice-Presidents of the VTE.

The Order also commences section 239 of the Act which amends the Deregulation and Contracting Out Act 1994 (c. 40) (“the 1994 Act”), primarily to extend the definition of “local authority” for the purposes of Part 2 of the 1994 Act. This will allow the Secretary of State to make orders permitting a wider range of bodies than was previously possible to contract out their functions. As a consequence of this change, section 239(5) amends section 18 of the Local Government Act 1999 (c. 27) (“the 1999 Act”), which applies Part 2 of the 1994 Act to certain additional bodies. The Transport for London (Best Value) (Contracting Out of Investment and Highway Functions) Order 2006 (S.I. 2006/91) was made under section 18 of the 1999 Act and article 7(4) of this Order provides for that instrument to continue notwithstanding the amendment of section 18.