

# **LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part 3: Executive Arrangements for England**

##### **Introduction**

154. Part 2 of the Local Government Act 2000 put in place a new decision-making framework in which there is a separation of the decision-making and scrutiny roles of local authorities. It required the majority of local authorities to put in place executive arrangements involving the creation and operation of one of three different forms of executive. For certain small district councils, the option of alternative arrangements, not involving a separate executive, was made available.
155. **Part 3** of, and schedule 4 to, this Act provide for the discontinuance of two of the forms of executive, the leader and cabinet executive and the mayor and council manager executive, provided for under the 2000 Act. It introduces a new-style leader and cabinet executive. It also provides the means for an authority to adopt governance arrangements which differ from its existing arrangements.

##### **Executive Arrangements for England**

##### ***Section 62: Executive arrangements for England***

156. This section modifies the provisions in the Local Government Act 2000 in respect of the forms of executive which local authorities may operate.
157. It requires any council in England which operates executive arrangements to operate one of the following models:
- Leader and cabinet executive (England);
  - Mayor and cabinet executive;
158. The key features of each executive model are as follows.
- Leader and cabinet executive (England) – a councillor elected as leader for either a 4 year term, in the case of a local authority operating whole-council elections, or until his or her term of office as councillor expires, where the local authority instead operates elections by halves or thirds, and two or more councillors of the authority appointed to the executive by the executive leader;
  - Mayor and cabinet executive – a directly elected mayor who appoints two or more councillors to the executive.
159. The maximum number of members that an executive may have remains 10.

### ***Section 63: Discharge of functions***

160. This section amends the provisions of the Local Government Act 2000 to provide for the leader in a leader and cabinet executive (England) to make arrangements for the discharge of functions in the same way as a mayor in a mayor and cabinet executive.

### ***Section 64: Changing governance arrangements***

161. This section inserts new sections 33A to 33O into the Local Government Act 2000. The new provisions allow a local authority to change their executive arrangements, including the replacement of their existing form of executive with a different form of executive as permitted under section 11 of the Local Government Act 2000; or where they are operating alternative arrangements, to change their alternative arrangements, including the replacement of those arrangements with executive arrangements.
162. Sections 33A to 33I set out the general procedure to be followed by local authorities. These provisions require a local authority to draw up proposals for a change in governance arrangements and allow them to provide for the change to be subject to approval in a referendum where the proposed change is for the operation of a different form of executive or a move to executive arrangements. They require an authority to take reasonable steps to consult local government electors and other interested persons on the proposals and to pass a resolution to make the proposed change. They also make provision about the implementation of the change.
163. Sections 33J to 33N impose certain additional requirements in relation to proposals for a change to a new form of executive or to executive arrangements and proposals which are to be subject to a referendum.
164. Section 33O is an interpretation provision.

### ***Section 65: Referendum following petition***

165. This section amends the provisions in section 34 of the Local Government Act 2000 to ensure the provisions in that Act, which provide the ability of local people to petition their local authority to hold referendum on a relevant form of executive, are updated to reflect the insertion into the 2000 Act of new sections 33A to 33O by section 64 of this Act.

### ***Section 66: Elected mayors***

166. This section amends section 39 of the Local Government Act 2000 as it applies to local authorities in England. It replaces subsection (5) with new subsections (5A), (5B) and (5C) which provide that reference in any enactment to a member or councillor of a local authority does not include the elected mayor of an authority that is operating executive arrangements involving a mayor and cabinet executive. This is unless:
- the Secretary of State has provided in regulations that a mayor is to be treated as a member or councillor for the purposes of an enactment; or
  - provision to the contrary has been made in an enactment.
167. [Section 66](#) also amends section 39 of the Local Government Act 2000 by inserting a new subsection (6), which provides for the elections of mayors in England to take place on the same day as council elections. The new subsections (7) and (8) re-enact the current subsection (6), so that the term of office of mayors in England and Wales remains four years.

***Section 67: Leader and cabinet executives (England)***

168. This section inserts new sections 44A to 44H, into the Local Government Act 2000 with respect to the new style of leader and cabinet executive which replaces the previous such model in relation to England only.
169. The provision made for the election of the leader in a leader and cabinet executive (England) varies depending on whether the local authority holds whole-council elections or elections by halves or by thirds. In the case of the former, the leader is elected at the annual meeting following a whole-council election or at a subsequent meeting. In the case of the latter, the leader is elected at the relevant annual meeting. Thereafter, the leader is elected at the annual meeting held shortly after the day on which the previous leader would normally be required to retire as councillor.
170. New section 44C provides that the leader can be removed by the local authority if its executive arrangements so provide.
171. Generally, however, the leader remains in office until shortly after the date on which they would normally have retired as councillor and will continue to be a councillor during that period. The term of office of the leader will be four years where the local authority holds whole-council elections. Where the local authority holds elections by halves or thirds, the leader's term of office will vary, depending on the length of the remainder of the leader's term of office as councillor.
172. New section 44H provides powers for the Secretary of State to make regulations with regard to the term of office of executive leaders and the filling of casual vacancies in the office of the executive leader.

***Section 68: Power to make incidental, consequential provision etc***

173. [Section 68](#) allows the Secretary of State to make incidental or consequential provision for the purpose of changing election years and the terms of office of executive members.

***Section 69: Time limit for holding further referendum***

174. This section amends section 45(1) of the Local Government Act 2000 to extend the period within which more than one referendum can be held in England from 5 years to 10 years. This provision applies to referendums held both before and after this section comes into force.

***Section 70: Interpretation***

175. This section amends the definition of the "executive leader" in section 48 of the Local Government Act 2000. It also inserts a definition of the "ordinary day of election".

***Section 71: Larger authorities to cease operating alternative arrangements***

176. [Section 71](#) requires that local authorities operating alternative arrangements with a population of greater than 85,000 on 30 June 1999 to cease operating alternative arrangements and to start operating the leader and cabinet executive (England). It sets out the procedure that is to be followed by these authorities to make the required change. The councils concerned must operate the new leader and cabinet model no later than the day of their annual meeting in 2009.

***Section 72: Failure to cease operating alternative arrangements***

177. [Section 72](#) gives the Secretary of State a default power which allows her to specify by order executive arrangements providing for a leader and cabinet executive (England) where a council which is required to cease operating executive arrangements fails to resolve to move to the new leader and cabinet model. The new model must be operated no later than the day of the council's annual meeting in 2009.

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

***Section 73: Sections 71 and 72: supplementary***

178. **Section 73** makes clear that sections 33C, 33I(1) and 33P(5) either do not apply to councils which must cease to operate alternative arrangements or apply with modifications.

***Section 74: Further amendments & transitional provision***

179. This section provides that Schedules 4 and 5 have effect.