

*Status: Point in time view as at 30/12/2007.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Public Involvement in Health Act 2007, SCHEDULE 4. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4 **E+W**

Section 245

#### NEW ARRANGEMENTS FOR EXECUTIVES: TRANSITIONAL PROVISION

#### PART 1 **E+W**

##### OLD-STYLE LEADER AND CABINET EXECUTIVE

###### *Application of Part*

- 1 This Part applies to a local authority in England if, at the relevant time, the authority is operating an old-style leader and cabinet executive.

###### **Commencement Information**

- I1** Sch. 4 para. 1 in force at 30.12.2007, see s. 245(2)

###### *Continued operation of existing executive*

- 2 (1) The coming into force of section 62(5) does not prevent the local authority from continuing to operate the old-style leader and cabinet executive until the end of the transitional period.
- (2) For as long as the local authority continues to operate the old-style leader and cabinet executive, any enactment amended or repealed by this Part of this Act continues to apply in relation to the local authority, and to the executive and its operation, as if the amendment or repeal had not been made.

###### **Commencement Information**

- I2** Sch. 4 para. 2 in force at 30.12.2007, see s. 245(2)

###### *Change in form of executive*

- 3 (1) The local authority must make a change in governance arrangements of the kind set out in section 33A of the LGA 2000 (new form of executive).
- (2) Sections 33E, 33F, 33G, 33I(2) and 33J of the LGA 2000 apply to a change in governance arrangements required by this paragraph as they apply to a change made under section 33A.
- (3) In the application of section 33G by virtue of this paragraph, “relevant elections” has the meaning given in paragraph 5.

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- (4) Any resolution to make the change in governance arrangements must be passed—
- (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
  - (b) during the permitted resolution period specified in the second column of the following table in relation to the authority.

<i>Type of local authority</i>	<i>Permitted resolution period</i>
Metropolitan district	The period ending with 31 December 2009
County	The period ending with 31 December 2008
London borough	The period ending with 31 December 2009
Non-metropolitan district	The period ending with 31 December 2010

- (5) The Secretary of State may by order provide that a permitted resolution period is to end later than the last day of the period specified in the table.

**Commencement Information**

**I3** Sch. 4 para. 3 in force at 30.12.2007, see s. 245(2)

*Failure to change form of executive: automatic change*

- 4 (1) This paragraph applies if the local authority does not make a change in governance arrangements in accordance with paragraph 3.
- (2) Before the end of the transitional period, the local authority must draw up and adopt executive arrangements which provide for a leader and cabinet executive (England).
- (3) But if it appears to the Secretary of State that the authority will fail to comply with sub-paragraph (2), the Secretary of State may by order specify executive arrangements which provide for a leader and cabinet executive (England).
- (4) The leader and cabinet executive (England) which is provided for under sub-paragraph (2) or (3) shall come into operation on the last day of the transitional period.
- (5) Arrangements which the Secretary of State specifies under sub-paragraph (3) are to be treated as having been made by the local authority itself.
- (6) Arrangements which come into operation in accordance with sub-paragraph (4) are to be treated as being operated after the passing of a resolution of the authority under section 33F of the LGA 2000.
- (7) As soon as practicable after executive arrangements are adopted under sub-paragraph (2), or specified under sub-paragraph (3), the local authority must comply with the duties set out in the following provisions of the LGA 2000—
- (a) section 29(2)(a);

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(b) section 29(2)(b)(ii) to (v).

**Commencement Information**

**I4** Sch. 4 para. 4 in force at 30.12.2007, see s. 245(2)

*Interpretation*

5 (1) In this Part—

“LGA 2000” means the Local Government Act 2000 (c. 22);

“old-style leader and cabinet executive” means a leader and cabinet executive of the form specified in section 11(3) of the LGA 2000;

“relevant elections” means the first ordinary elections of councillors of the local authority which take place after the end of the permitted resolution period (within the meaning of paragraph 3(4)(b));

“relevant time” means the time immediately before section 62(5) comes into force;

“transitional period” means the period that—

(a) starts when section 62(5) comes into force, and

(b) ends with the third day after the day of the relevant elections.

(2) Expressions used in this Part of this Schedule and in Part 2 of the LGA 2000 have the same meaning in this Part as in that Part.

**Commencement Information**

**I5** Sch. 4 para. 5 in force at 30.12.2007, see s. 245(2)

**PART 2** **E+W**

MAYOR AND COUNCIL MANAGER EXECUTIVE

*Application of Part*

6 This Part applies to a local authority in England if, at the relevant time, the authority is operating a mayor and council manager executive.

**Commencement Information**

**I6** Sch. 4 para. 6 in force at 30.12.2007, see s. 245(2)

*Continued operation of existing executive*

7 (1) The coming into force of section 62(6) does not prevent the local authority from continuing to operate the mayor and council manager executive.

(2) For as long as the local authority continues to operate the mayor and council manager executive, any enactment amended or repealed by this Part of this Act continues to

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apply in relation to the local authority, and to the executive and its operation, as if the amendment or repeal had not been made.

**Commencement Information**

**I7** Sch. 4 para. 7 in force at 30.12.2007, see s. 245(2)

*Change in form of executive*

- 8 (1) The local authority must make a change in governance arrangements of the kind set out in section 33A of the LGA 2000 (new form of executive).
- (2) Sections 33E, 33F, 33I(2) and 33J of the LGA 2000 apply to a change in governance arrangements required by this paragraph as they apply to a change made under section 33A.

**Commencement Information**

**I8** Sch. 4 para. 8 in force at 30.12.2007, see s. 245(2)

- 9 (1) This paragraph applies if the proposals drawn up in accordance with section 33E provide for a change to a mayor and cabinet executive.
- (2) The proposals must specify the day on which the authority is to cease operating the mayor and council manager executive and start operating the mayor and cabinet executive.
- (3) The day specified in accordance with sub-paragraph (2) must fall before the day which is expected to be the last day of the relevant mayoral term.
- (4) Any resolution to make the change in governance arrangements must be passed —
- (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object, and
  - (b) on or before 31 December 2008 or such later date as the Secretary of State may by order provide.
- (5) The following sub-paragraphs apply if the local authority adopt the mayor and cabinet executive.
- (6) On the day specified in accordance with sub-paragraph (2), the local authority must—
- (a) cease operating the mayor and council manager executive, and
  - (b) start operating the mayor and cabinet executive.
- (7) The council manager ceases to hold office when the local authority ceases to operate the mayor and council manager executive.
- (8) But—
- (a) the mayor does not cease to hold office, and
  - (b) his term of office is not affected,
- by virtue of the local authority ceasing to operate the mayor and council manager executive.

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- (9) Subject to sub-paragraph (6), the local authority must implement the change in governance arrangements in accordance with the timetable in the proposals.
- (10) Any arrangements (including any enactment or subordinate legislation) which apply to the election of the mayor of the mayor and council manager executive—
  - (a) apply to the first election of the mayor of the mayor and cabinet executive as if it were the election of the mayor of the mayor and council manager executive, and
  - (b) subject to any order under Part 3, apply in the same way to subsequent elections of the mayor of the mayor and cabinet executive.

#### **Commencement Information**

**I9** Sch. 4 para. 9 in force at 30.12.2007, see s. 245(2)

- 10 (1) This paragraph applies if the proposals drawn up in accordance with section 33E provide for a change to a leader and cabinet executive (England).
- (2) Section 33K(2), (3), (5) and (6) of the LGA 2000 apply to the change as they would if the change were, by virtue of section 33M of the LGA 2000, subject to approval in a referendum.
- (3) Any resolution to make the change in governance arrangements must be passed on or before the earlier of these days—
  - (a) the last day of the period of 28 days that begins with the day when the referendum is held;
  - (b) 31 December 2008, or such later date as the Secretary of State may by order provide.
- (4) Section 45(1) of the LGA 2000 does not prevent a referendum from being held in accordance with section 33K of the LGA 2000 as applied by sub-paragraph (2).
- (5) The proposals must provide for the local authority to cease operating the mayor and council manager executive and start operating the leader and cabinet executive (England) on the day which is expected to be the last day of the relevant mayoral term.
- (6) The following sub-paragraphs apply if the local authority adopt the leader and cabinet executive (England).
- (7) On the day specified in accordance with sub-paragraph (5), the local authority must—
  - (a) cease operating the mayor and council manager executive, and
  - (b) start operating the leader and cabinet executive (England).
- (8) Subject to sub-paragraph (7), the local authority must implement the change in governance arrangements in accordance with the timetable in the proposals.
- (9) If the local authority has held its annual meeting in 2009 before changing to the leader and cabinet executive (England), the authority must hold a meeting within the 21 days following the day on which it changes to that form of executive.
- (10) For the purposes of section 44B of the LGA 2000, that meeting is to be treated as a relevant annual meeting.

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**Commencement Information**

**I10** Sch. 4 para. 10 in force at 30.12.2007, see s. 245(2)

*Failure to change form of executive: automatic change*

- 11 (1) This paragraph applies if the local authority does not make a change in its executive arrangements in accordance with paragraph 8.
- (2) Before the end of the transitional period, the local authority must draw up and adopt executive arrangements which provide for a mayor and cabinet executive.
- (3) But if it appears to the Secretary of State that the authority will fail to comply with sub-paragraph (2), the Secretary of State may by order specify executive arrangements which provide for a mayor and cabinet executive.
- (4) The mayor and cabinet executive which is provided for under sub-paragraph (2) or (3) shall come into operation on the last day of the transitional period.
- (5) Arrangements which the Secretary of State specifies under sub-paragraph (3) are to be treated as having been made by the local authority itself.
- (6) Arrangements which come into operation in accordance with sub-paragraph (4) are to be treated as being operated after the passing of a resolution of the authority under section 33F of the LGA 2000.
- (7) As soon as practicable after executive arrangements are adopted under sub-paragraph (2), or specified under sub-paragraph (3), the local authority must comply with the duties set out in the following provisions of the LGA 2000—
- (a) section 29(2)(a);
  - (b) section 29(2)(b)(ii) to (v).

**Commencement Information**

**I11** Sch. 4 para. 11 in force at 30.12.2007, see s. 245(2)

*Interpretation*

- 12 (1) In this Part—
- “LGA 2000” means the Local Government Act 2000 (c. 22);
- “relevant election day” means the day in 2009 on which an ordinary election of a mayor would take place if the local authority continued to operate a mayor and council manager executive;
- “relevant mayoral term”, in relation to proposals, means the term of office of the person who is mayor when the proposals are drawn up;
- “relevant time” means the time immediately before section 62(6) comes into force;
- “transitional period” means the period that—
- (a) starts when section 62(6) comes into force, and
  - (b) ends with the third day after the relevant election day.

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- (2) Expressions used in this Part of this Schedule and in Part 2 of the LGA 2000 have the same meaning in this Part as in that Part.

**Commencement Information**

**I12** Sch. 4 para. 12 in force at 30.12.2007, see s. 245(2)

**PART 3** **E+W**

OTHER TRANSITIONAL PROVISION

- 13 (1) The Secretary of State may by order make transitional, saving or transitory provision for the purposes of—
- (a) supplementing or giving full effect to Part 3 of this Act; or
  - (b) making provision consequential on the passing of Part 3 of this Act.
- (2) An order under sub-paragraph (1) may, in particular, make—
- (a) provision as to the dates on which and years in which relevant elections may or must be held;
  - (b) provision as to the intervals between relevant elections;
  - (c) provision as to the term of office of any member of any form of executive;
  - (d) provision as to when sections 33A to 33D of the LGA 2000 are to begin to apply in relation to a local authority;
  - (e) provision as to when section 39(6) and (7) of the LGA 2000 are to begin to apply in relation to a local authority.
- (3) An order under sub-paragraph (1) may, in particular, make provision to supplement any provision made in Part 1 or 2 of this Schedule.
- (4) An order under sub-paragraph (1) may not make provision of the kind that may be made under section 243.
- (5) In this paragraph “relevant election” means—
- (a) an election for the return of an elected mayor;
  - (b) the election by a local authority of the executive leader of a leader and cabinet executive (England).

**Commencement Information**

**I13** Sch. 4 para. 13 in force at 30.12.2007, see s. 245(2)

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