STATUTORY INSTRUMENTS

2008 No. 172 (C. 4)

LOCAL GOVERNMENT, ENGLAND

The Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008

Made - - - - 30th January 2008

The Secretary of State, in exercise of the powers conferred by sections 245(5) and (6) of the Local Government and Public Involvement in Health Act 2007(**1**), makes the following Order.

Citation and interpretation

1.—(1) This Order may be cited as the Local Government and Public Involvement in Health Act 2007 (Commencement No.2 and Savings) Order 2008.

(2) In this Order—

"the Act" means the Local Government and Public Involvement in Health Act 2007;

"the 2000 Act" means the Local Government Act 2000(**2**);

Provisions coming into force on 31st January 2008 and savings

2.—(1) The following provisions of the Act shall come into force on 31st January 2008—

(a) section 149 (interaction of the Audit Commission with other authorities) and Schedule 11 (interaction with other authorities);

(b) section 151 (powers of auditors and inspectors to obtain information);

(c) section 153 (national studies);

(d) section 154 (studies at request of particular bodies);

(e) section 155 (registered social landlords);

(f) section 164 (disclosure of information obtained by the Audit Commission or an auditor);

(g) section 166 (registered social landlords in Wales);

(h) section 167 (disclosure of information obtained by the Audit Commission or an auditor);

(i) section 184 (certain references to code of conduct to include default code);

(j) section 188 (sub-committees of standards committees);

(**1**) 2007 c. 28.
(**2**) 2000 c. 22.

(k) section 189 (joint committees of relevant authorities in England);

(l) section 190 (Standards Board for England: functions);

(m) section 192 (ethical standards officers: reports etc) with the exception of subsection (7);

(n) section 193 (disclosure by monitoring officers of ethical standards officers' reports);

(o) section 194 (matters referred to monitoring officers);

(p) section 195 (references to Adjudication Panel for action in respect of misconduct);

(q) section 204 (political assistants' pay);

(r) section 225 (duties of services-providers to allow entry by local involvement networks);

(s) section 229 (sections 221 to 228: interpretation and supplementary);

(t) section 238 (amendments relating to capital finance and accounting practices);

(u) section 241 (repeals), in so far as it relates to—

(i) the provisions specified in Parts 10, 11, 12 and 13 of Schedule 18;

(ii) subject to paragraph (2) so much of Part 15 of Schedule 18 as relates to sections 54A(2), 55 and 62(1) of, and Schedule 4 to, the 2000 Act; and

(iii) in relation to Wales only, so much of Part 15 of Schedule 18 as relates to section 52 of the 2000 Act.

(2) Sections 54A(2), 55 and 62(1) of, and Schedule 4 to, the 2000 Act shall continue to apply to any case referred to the Standards Board for England before 1st April 2008 as if—

(a) so much of paragraph 1(j) of this article as brings into force subsections 1(a) and 2(a), (b), (h), (i) and (j) of section 188 of the Act,

(b) so much of paragraph 1(l) of this article as brings into force subsection (2)(a) of section 190 of the Act,

(c) paragraph (1)(u)(ii) of this article, and

(d) article 7(1),

were not included in this Order.

Provisions coming into force on 31st March 2008

3. Section 148 (Benefit Fraud Inspectorate: transfers to the Audit Commission) and Schedule 10 (Benefit Fraud Inspectorate: transfer schemes) shall come into force on 31st March 2008.

Provisions coming into force on 1st April 2008

4. The following provisions of the Act shall come into force on 1st April 2008—

(a) section 146 (change of name) and Schedule 9 (consequential amendments relating to change of name of the Audit Commission);

(b) section 147 (powers of the Audit Commission relating to benefits);

(c) section 150 (interaction of benefits inspectors with the Audit Commission);

(d) section 152 (inspections of best value authorities);

(e) section 156 (information about performance standards of local authorities);

(f) section 157 (reports on English local authorities);

(g) sections 159 to 163 (amendment of provisions relating to audit in the Audit Commission Act 1998(**3**));

(**3**) 1998 c. 18.

(h) section 165 (publication of information by the Audit Commission);

(i) section 187 (chairmen of standards committees);

(j) section 196 (consultation with ombudsmen);

(k) section 200 (exemption from Data Protection Act 1998);

(l) section 201 (supplementary and consequential provision);

(m) section 203 (politically restricted posts: consequential amendments);

(n) section 241 (repeals) in so far as it relates to—

(i) the provisions specified in Part 9 of Schedule 18; and

(ii) so much of Part 15 of Schedule 18 to the Act as relates to section 3(8)(a) of the Local Government and Housing Act 1989(**4**).

Partial commencement of section 183

5.—(1) The following provisions of section 183 of the Act (conduct that may be covered by code) shall come into force on 31st January 2008—

(a) subsection (1) in so far as it inserts subsections (2C) and (2D) into section 49 of the 2000 Act;

(b) subsection (2) in so far as it inserts subsections (4C), (4D) and (4E) into section 50 of the 2000 Act;

(c) subsection (3) in so far as it inserts subsection (4C) into section 51 of the 2000 Act; and

(d) subsections (7) to (11).

(2) Subsections (4) to (6) of section 183 of the Act shall come into force in relation to Wales only, on 31st January 2008.

Partial commencement of section 185

6. Section 185 of the Act (assessment of allegations) shall come into force on 31st January 2008 in so far as it confers powers to make regulations under sections 57C and 57D of the 2000 Act.

Commencement of section 191 with savings

7.—(1) Subsection (3) of section 191 of the Act (ethical standards officers: investigations and findings) shall come into force on 31st January 2008.

(2) Except as mentioned in paragraph (1) section 191 of the Act shall come into force on 1st April 2008, in relation to any case referred to the Standards Board for England under section 58 of the 2000 Act on or after 1st April 2008.

(3) Section 59 of the 2000 Act shall continue to apply in relation to any case referred to the Standards Board for England as if the amendment made by section 191(1) of the Act had not been made.

Partial commencement of section 198

8. Section 198 of the Act (case tribunals: England) shall come into force on 31st January 2008 in so far as it confers powers to make regulations under subsections (4) or (7) of section 78A of the 2000 Act.

(**4**) 1989 c.42.

Commencement of section 202

9.—(1) Subsection (1) of section 202 of the Act (politically restricted posts: grant and supervision of exemptions) shall come into force on 1st April 2008.

(2) Subsection (2) of that section shall come into force on 31st January 2008 in so far as it confers power to make regulations under subsection (8) of section 3A the Local Government and Housing Act 1989 and inserts section 3B of that Act.

(3) Section 202(2) shall come into force for all other purposes on 1st April 2008.

Signed by authority of the Secretary of State for Communities and Local Government

John Healey
Minister of State
Department for Communities and Local Government

30th January 2008

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force on 31st January 2008, 31st March 2008 or 1st April 2008, as the case may be, various provisions of the Local Government and Public Involvement in Health Act 2007 ("the Act") as described below.

Part 8 — Part 8 (local services: inspection and audit) is commenced with the exception of sections 145 and 158.

The provisions in Part 8 that are commenced by this Order—

provide for changes to the name and composition of the Audit Commission, its powers and duties and the transfer to it of the Benefit Fraud Inspectorate;

make minor changes to the powers and duties of the Auditor General for Wales; and

make changes to the audit regime set out in the Audit Commission Act 1998 and to the disclosure of information by the Commission, the Auditor General and auditors appointed by them.

Part 10 — Part 10 of the Act (ethical standards) is commenced with the exception of sections 186, 197 and 199. Sections 183, 185, 191, 192 and 198 are brought into force partially.

Section 183(4) to (6) is commenced in relation to Wales only. The other provisions of section 183 that are commenced apply to both England and Wales. Section 183 amends provisions in the Local Government Act 2000 ("the 2000 Act") which set out conduct which may be covered by a code of conduct for local authority members. The partial commencement in England and Wales amends the power of the Secretary of State to make orders as to general principles, model codes of conduct and in respect of codes of conduct adopted by relevant authorities. The commencement of section 183(4) to (6) brings the new arrangements for codes of conduct into force in Wales only.

Section 184 amends sections 37, 52 and 54 of the 2000 Act to provide that certain references to an authority's code of conduct include reference to the mandatory provisions applicable for the time being to the members and co-opted members of the authority.

The partial commencement of section 185 enables the Secretary of State to make regulations in relation to allegations made to standards committees of relevant authorities that members or co-opted members (or former members or co-opted members) of those authorities have failed, or may have failed to comply with their authority's code of conduct.

Section 187 amends section 53(4) of the 2000 Act and has the effect of requiring the persons chairing standards committees to be persons who are not members or officers of any relevant authority.

Sections 188 and 189 make provision in respect of sub-committees of standards committees of relevant authorities and enable two or more relevant authorities to establish a joint committee to exercise functions of the standards committee of any (or each) of the authorities.

Section 190 adds to the functions of the Standards Board for England to enable it to issue guidance to ethical standards officers and to do such things as are calculated to facilitate, or are incidental or conducive to the exercise of the functions of standards committees and monitoring officers of relevant authorities in England.

Sections 191 and 192 deal with ethical standards officers' power to investigate misconduct allegations and make provision in respect of such officers' reports. The saving contained in article

7(3) of this Order preserves the existing legal framework in respect of cases referred to the Standards Board for England before 1st April 2008.

Sections 193 to 196 amend the powers and functions of monitoring officers and standards committees; they are consequential to the conferring on standards committees of the new function of the initial assessment of allegations of misconduct against members of relevant authorities.

The partial commencement of section 198 enables the Secretary of State to make regulations relating to the powers and conduct of English case tribunals.

Section 200 amends the Data Protection Act 1998 (c.29) by adding to the list of exemptions contained in section 31 of that Act.

Section 201 makes supplementary provision relevant to provisions of Part 3 of the 2000 Act and consequential amendments to the Local Government Act 1972 (c. 70), the Audit Commission Act 1998 (c. 18) and the Greater London Authority Act 1999 (c. 29).

Section 202, which amends section 3 of the Local Government and Housing Act 1989 (c. 42) ("the 1989 Act") and inserts sections 3A and 3B, has the effect of transferring the function of granting exemptions from political restriction on members of relevant authorities in England from an Independent Adjudicator appointed by the Secretary of State to the standards committees of relevant authorities. It also empowers the Secretary of State to make regulations requiring an authority which is not a relevant authority, and consequently not required to have a standards committee, to establish such a committee to exercise the functions of granting and supervising exemptions from political restriction. The section also provides for the Secretary of State to issue general guidance with regard to a committee's role in making decisions on political restriction.

Section 203 makes amendments in consequence of the insertion by section 202 of new sections 3A and 3B of the 1989 Act.

Section 204 enables the Secretary of State to limit the pay of political assistants by order under section 9(4)(a) of the 1989 Act by specifying a point on a relevant scale instead of an amount.

Part 14 — Sections 225 and 229 are commenced.

Section 225 requires the Secretary of State to make regulations imposing a duty on services-providers to allow authorised representatives of local involvement networks to enter and view services-providers' premises owned or controlled by services-providers, and observe the carrying-on of activities on those premises. (Definitions of "authorised representative", "local involvement network" and "services-provider" are given in subsections (5) to (7) of section 225.)

Section 229 defines "local authority" for the purposes of sections 221 to 228 of the Act and gives the Secretary of State the power, when making regulations under those sections, to make incidental, supplementary, consequential, transitory or transitional provisions or savings.

Part 16 — Section 238 is commenced. It deals with local authority capital finance and accounting practices. Subsection (1) makes a minor amendment to the Housing Act 1988 (c. 50) so that references to the former capital finance regime for local authorities are replaced with references to Part 1 of the Local Government Act 2003 (c. 26), which contains the current capital finance regime. Section 238(2) and (3) amends sections 21 and 24 in that Part, in particular by giving the Secretary of State and Welsh Ministers the power to issue guidance to local authorities in relation to the accounting practices to be followed by them.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force by commencement order made before the date of this Order:

Provision	*Date of commencement*	*S.I.No.*
Part 1	1.11.2007	2007/3136
Section 241 (partially)	1.11.2007	2007/3136
Schedule 1	1.11.2007	2007/3136
Schedule 18, Part 1	1.11.2007	2007/3136