Draft Order laid before Parliament under section 18(7) of the Legislative and Regulatory Reform Act 2006 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 0000

LOCAL GOVERNMENT, ENGLAND AND WALES

REGULATORY REFORM

The Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008

Made - - - -	*2008*
Coming into force - -	*2008*

The Secretary of State for Communities and Local Government makes the following Order, in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**a**).

For the purposes of section 3(1) of the Legislative and Regulatory Reform Act 2006, she considers that the conditions under section 3(2), where relevant, are satisfied.

Agreement to the making of the Order has been given by the National Assembly for Wales in accordance with section 11(1) of that Act and by the Welsh Ministers in accordance with section 11(2) of that Act(**b**).

She has consulted in accordance with section 13(1) of that Act, save to the extent covered by section 13(3) and 13(4) of that Act.

She laid a draft Order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15(4) of that Act, the super-affirmative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the making of the Order.

After the expiry of the 60-day period mentioned in section 18 of that Act, and in accordance with section 18(7), the Secretary of State laid a revised draft Order and statement before Parliament, and the draft was approved by resolution of each House of Parliament.

(**a**) 2006 c. 51; sections 1, 4, 11, 13, 24 and 27 have been amended by the Government of Wales Act 2006 (Consequential Modifications and Transitional Provisions) Order 2007 (S.I. 2007/1388), Schedule 1, paragraphs 143 to 149.

(**b**) Section 11 as amended by S.I. 2007/1388 makes separate provision for the agreement of the National Assembly for Wales as constituted under the Government of Wales Act 2006 (c. 32), and of the Welsh Ministers.

Citation, commencement and extent

1.—(1) This Order may be cited as the Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008 and shall come into force on the day after the day on which it is made.

(2) This Order extends to England and Wales only.

Cancer treatment advertisements

2. In section 4 of the Cancer Act 1939 (prohibition of certain advertisements)(**a**)—

(a) subsection (6) shall be repealed; and

(b) for subsection (7), there shall be substituted—

"(7) Each of the following may institute proceedings under this section—

(a) a county council in England;

(b) a non-metropolitan district council for an area in England for which there is no county council;

(c) a London borough council;

(d) the Common Council of the City of London; or

(e) a county council or county borough council in Wales.".

Hackney carriage licence zones

3.—(1) Subject to paragraph (2), in paragraph 25 of Schedule 14 to the Local Government Act 1972 (amendment and modification of Public Health Acts 1875 to 1925) ("paragraph 25")(**b**)—

(a) in sub-paragraph (1), for "sub-paragraphs (2) and (4)" there shall be substituted "sub-paragraph (2)";

(b) sub-paragraph (4) shall be repealed; and

(c) in sub-paragraph (6)—

(i) in paragraph (a), the words from "except" to "any area," shall be omitted; and

(ii) paragraph (b) and the preceding "and" shall be repealed.

(2) Where, before the date on which this Order comes into force—

(a) a local authority(**c**), after giving the requisite notice, passes a resolution under paragraph 25 that section 171(4) of the Public Health Act 1875 (incorporation of certain provisions of the Town Police Clauses Act 1847(**d**))(**e**) shall apply throughout its area; and

(b) that resolution is neither approved nor disapproved by the Secretary of State or, in relation to a local authority in Wales, the Welsh Ministers,

the date on which that resolution is to take effect shall be the date which is 35 days after the date on which this Order comes into force.

(**a**) 1939 c. 13; subsection (6) of section 4 was amended by section 3(2) of and the Schedule to the Law Officers Act 1997 (c. 60). There are other amendments to section 4 not relevant to this Order.

(**b**) 1972 c. 70. The functions of the Secretary of State under paragraph 25 of Schedule 14 were formerly exercisable by the National Assembly for Wales concurrently with the Secretary of State, *see* article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) and the entry for the Local Government Act 1972 in Schedule 1 to that Order. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), the functions exercisable by the National Assembly for Wales were transferred to the Welsh Ministers.

(**c**) *See* section 270(1) of the Local Government Act 1972 (general provisions as to interpretation) for the definition of "local authority", as amended by Schedule 17 to the Local Government Act 1985 (c.51), and section 1(5) of the Local Government (Wales) Act 1994 (c.19).

(**d**) 1847 c. 89.

(**e**) 1875 c. 55; section 171 was amended by the Public Health Act 1936 (c.49), section 346 and Schedule 3, Part 1.

Overseas assistance

4. In section 1 of the Local Government (Overseas Assistance) Act 1993 (power to provide advice and assistance)(**a**)—

(a) in subsection (1), for "subsections (3) to (6)", there shall be substituted "subsection (6)"; and

(b) subsections (3), (4) and (5) shall be repealed.

Curriculum for pupil referral units - arrangements for complaints

5. In paragraph 6 of Schedule 1 to the Education Act 1996 (pupil referral units - curriculum)(**b**), in sub-paragraph (3) the words ", with the approval of the Secretary of State," shall be omitted.

Signed by authority of the Secretary of State

Minister of State
2008 Department for Communities and Local Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order removes a number of burdens on local authorities caused by the need for them to seek consent of (depending on the case) the Attorney-General, the Secretary of State or Welsh Ministers, before taking certain actions. The Order extends to England and Wales only.

Section 4 of the Cancer Act 1939 provides that (with some exceptions) it is an offence for a person to take part in the publication of any advertisement containing an offer to treat any person for cancer, to prescribe a remedy for it or to give any advice in connection with the treatment of it. A prosecution for such an offence must not be instituted in England or Wales without the consent of the Attorney-General (subsection (6)) and, subject to that, a county council or county borough council has a duty to institute proceedings under section 4 (subsection (7)). This Order removes the burden of seeking such consent, by repealing subsection (6) and replacing subsection (7). The new subsection (7) provides the authority with a discretionary power to prosecute for an offence under section 4. The references to a council of a county or county borough in subsection (7) are also updated to reflect certain changes in local government structure and nomenclature since the date when the Cancer Act 1939 was passed (article 2).

Section 171(4) of the Public Health Act 1875 incorporates in that Act the provisions of the Town Police Clauses Act 1847 with respect to hackney carriages, under which taxis are licensed to ply for hire within a certain area. Paragraph 25 of Schedule 14 to the Local Government Act 1972 enables a local authority to resolve that section 171(4) of the Public Health Act 1875 shall apply throughout the authority's area. By virtue of sub-paragraph (4) of paragraph 25, a resolution does not have effect unless approved by the Secretary of State or, in Wales, by Welsh Ministers (functions of the Secretary of State under paragraph 25 are exercisable by the Welsh Ministers

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(**a**) 1993 c. 25; section 1 was amended by paragraph 103 of Schedule 16 to the Local Government (Wales) Act 1994 (c. 19); section 93 of, and Part I of Schedule 9 to, the Police and Magistrates' Courts Act 1994 (c. 29); sections 78 and 120(3) of, and paragraph 36 of Schedule 10 and Schedule 24 to, the Environment Act 1995 (c. 25); section 400 of, and paragraph 59 of Part I of Schedule 29 to, the Greater London Authority Act 1999 (c. 29); paragraph 83 of Schedule 1 to the Fire and Rescue Services Act 2004 (c.21); paragraph 10(3)(c) of Part 1 of Schedule 2 to the Civil Contingencies Act 2004 (c.36); section 209(2) of, and paragraph 50 of Part 2 of Schedule 13 to, the Local Government and Public Involvement in Health Act 2007 (c. 28); and S.I. 2001/3618.

(**b**) 1996 c. 56; paragraph 6 of Schedule 1 was amended by paragraphs 57 and 184 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31), S.I. 2002/2953 (in relation to England) and S.I. 2002/3184 (in relation to Wales). The functions of the Secretary of State under paragraph 6 of Schedule 1 were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); *see* the entry for the Education Act 1996 in Schedule 1 to that Order. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), certain of those functions were transferred to the Welsh Ministers.

concurrently with the Secretary of State). The burden on local authorities of seeking such approval is removed by this Order, which repeals sub-paragraph (4), and amends sub-paragraph (6), of paragraph 25 (article 3). Article 3 also includes a transitional provision for resolutions passed before the date on which this Order comes into force but which have not been approved or disapproved before that date.

Subsection (1) of section 1 of the Local Government (Overseas Assistance) Act 1993 enables a local authority to provide advice and assistance as respects any matter in which they have skill and experience to a body engaged outside the United Kingdom in the carrying out of any of the activities of local government. Subsection (3) of section 1 prevents a local authority exercising the power in subsection (1) unless it is exercised with the consent of the Secretary of State or in accordance with a general authorisation given by him. This Order removes the burden on local authorities, of seeking such consent or authorisation before exercising the power, by repealing subsection (3) and related provisions (article 4).

Paragraph 6 of Schedule 1 to the Education Act 1996 concerns the curriculum for pupil referral units. There is a duty in sub-paragraph (1) for the local education authority, the management committee (where applicable) and the teacher in charge to exercise their functions with a view to securing that the curriculum for their units satisfies certain statutory requirements for provision of a balanced and broadly based curriculum. Sub-paragraph (2) enables regulations to make provision for the determination and organisation of the curriculum, and the regulations may require the local education committee, management committee or teacher in charge to exercise prescribed functions in relation to the curriculum. Sub-paragraph (3) requires the local education authority, with the approval of the Secretary of State or, in Wales, of the Welsh Ministers, to make arrangements for the consideration and disposal of any complaint concerning the unreasonable exercise of any power or duty under sub-paragraph (1) or (2) or the failure to discharge such a duty. The burden on local education authorities, of seeking such approval in relation to the arrangements under sub-paragraph (3), is removed by this Order (article 5).

A full regulatory impact assessment of the effect that this instrument will have on the costs of business, charities, voluntary bodies and the public sector is available from Siobhan Scott at Innovation and Excellence, Local Improvement Support Directorate, Department for Communities and Local Government, Zone 5/A2, Eland House, Bressenden Place, London SW1E 5DU; or at siobhan.scott@communities.gsi.gov.uk.

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