

2012 No. 2913 (C. 115)

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Localism Act 2011 (Commencement No. 8 and Transitional,
Transitory and Savings Provisions) Order 2012**

Made - - - - *20th November 2012*

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by section 240(2) and (7) of the Localism Act 2011^(a), makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Localism Act 2011 (Commencement No. 8 and Transitional, Transitory and Savings Provisions) Order 2012.

(2) In this Order—

“the 2000 Act” means the Local Government Act 2000^(b);

“allegation” means an allegation in writing that relates to the conduct of a member of a police authority where that alleged conduct occurred prior to the commencement date;

“commencement date” means the 22nd November 2012;

“elected member” means a member of a county, district or county borough council appointed to a police authority in accordance with regulation 7 of the Police Authority Regulations 2008^(c);

“host authority”, in relation to an independent member, means the local authority which is being provided by the Secretary of State with financial resources in connection with the exercise of functions by or in relation to the Police and Crime Panel^(d) in the area of the independent member’s former police authority^(e);

“independent member” means an independent member of a police authority who was appointed in accordance with regulation 9 of the Police Authority Regulations 2008;

“member” means an elected or independent member;

^(a) 2011 c. 20.

^(b) 2000 c. 22. Part 3 of the Local Government Act 2000 (“the 2000 Act”) was amended in particular by the Local Government and Public Involvement in Health Act 2007 (c. 28) and the Localism Act 2011 (c. 20) (“the 2011 Act”). Section 26 and Schedule 4, and Part 5 of Schedule 25 and section 237 so far as relating to that Part, of the 2011 Act made amendments and repeals to Part 3 of the 2000 Act (and other legislation) which were commenced in relation to England and Wales except in so far as they apply to a police authority by virtue of the Localism Act 2011 (Commencement No. 2 and Transitional and Saving Provision) Order 2012 (S.I. 2012/57), the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012 (S.I. 2012/1463). The provisions made by S.I. 2012/1463 were amended by the Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) (Amendment) Order 2012 (S.I. 2012/1714).

^(c) S.I. 2008/630. There are amendments, but none is relevant for these purposes.

^(d) Section 102 of the Police Reform and Social Responsibility Act 2011 defines “police and crime panel”.

^(e) The Secretary of State may provide financial resources to a local authority in connection with the exercise of functions by or in relation to the Police and Crime Panel under paragraph 11(2)(b) or 20(1)(c) of Schedule 6 to the Police Reform and Social Responsibility Act 2011 (c. 13).

“police authority” means a police authority in England or Wales established under section 3 of the Police Act 1996(a); and

“relevant local authority” means—

- (a) in the case of an elected member, the relevant council within the meaning given by paragraph 8 of Schedule 2 to the Police Act 1996(b) of which that person is a member; or
- (b) in the case of an independent member, the host authority in relation to that member.

Provisions coming into force on the commencement date

2. Subject to articles 3, 4, 5 and 6, the following provisions of the Localism Act 2011 come into force in relation to England and Wales on the commencement date—

- (a) section 36 so far as it is not yet in force;
- (b) section 26 and Schedule 4 so far as they relate to police authorities; and
- (c) Part 5 of Schedule 25 and section 237 so far as relating to that Part, so far as they relate to police authorities.

Saving provision in relation to police authorities in England and Wales coming into force on the commencement date

3. Notwithstanding the amendment of sections 49(6) and 83 of the 2000 Act by Schedule 4 to the Localism Act 2011, those sections shall continue to have effect in their un-amended form for the purposes of the definition of “relevant authority” in Part 3 of the 2000 Act for the purposes of the transitional provisions made by this Order.

Transitional, transitory and savings provisions in relation to police authorities in England

4.—(1) This article applies where an allegation concerning a member of a police authority in England is made—

- (a) before the commencement date, to the police authority and in respect of which no finding has been made by the standards committee of that authority; and
- (b) on or after the commencement date but before 20th December 2012, to the relevant local authority in relation to that member.

(2) Where this article applies—

- (a) the allegation shall be treated as having been made to the relevant local authority under Chapter 7 of Part 1 of the Localism Act 2011;
- (b) the relevant local authority shall deal with the allegation in accordance with the standards arrangements the authority is required to have in place under that Act; and
- (c) section 28 of that Act has effect as though—
 - (i) references to a relevant authority’s code of conduct are references to the code of conduct of the police authority of the member who is the subject of an allegation, and

(a) 1996 c.16. This section is repealed by virtue of section 99 of, and paragraphs 1 and 5(a) of Part 1 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011. Those provisions are commenced by virtue of article 2 of the Police Reform and Social Responsibility Act 2011 (Commencement No. 7 and Transitional Provisions and Commencement No. 3 and Transitional Provisions (Amendment)) Order 2012 (S.I. 2012/ 2892).

(b) 1996 c. 16. Schedule 2 of the Police Act 1996 was repealed by virtue of section 99 and paragraphs 1 and 46 of Part 1 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) (“the 2011 Act”). Those provisions were commenced by virtue of article 3 of, and paragraphs (nnn)(i) of Schedule 1 to, the Police Reform and Social Responsibility Act 2011 (Commencement No. 3 and Transitional Provisions) Order 2011 (S.I. 2011/3019). That Order contains transitory and saving provisions in connection with the continued existence of police authorities established under section 3 of the Police Act 1996: article 10(5) of, and paragraph 16 of Schedule 2 to, that Order provide that paragraph 46 of Schedule 16 to the 2011 Act does not have effect as omitting Schedule 2. Article 10 of that Order applies until the coming into force of section 1 of the 2011 Act. Section 1 of that Act provides for the replacement of police authorities for police areas outside London with police and crime commissioners.

(ii) references to an allegation have the same meaning as in this Order.

(3) Notwithstanding article 2—

- (a) section 50 of the 2000 Act and any order made under that section, and
- (b) section 51 of that Act and any code adopted under that section,

continue to have effect for the purposes of enabling an allegation to be dealt with in accordance with this article.

5. Notwithstanding article 2, the provisions of the 2000 Act, and any regulations made under them, which are repealed or amended by sections 26 and 237 of, and Schedule 4 and Part 5 of Schedule 25 to, the Act continue to have effect for the purposes of—

- (a) the bringing of an appeal under regulation 21 of the Standards Committee (England) Regulations 2008(a);
- (b) proceedings before the First Tier Tribunal on a referral under section 64(3)(b) or 65(4) of the 2000 Act or under regulation 17 of the Standards Committee (England) Regulations 2008 or on an appeal under regulation 21 of those Regulations; or
- (c) legal proceedings associated with proceedings on an appeal or referral,

where proceedings were commenced before 22nd November 2012 or relate to a finding made by a standards committee before 22nd November 2012.

Transitional, transitory and savings provisions in relation to police authorities in Wales

6.—(1) This article applies—

- (a) where an allegation concerning a member of a police authority in Wales is made to the Public Services Ombudsman for Wales—
 - (i) before the commencement date and in respect of which no determination has been made; and
 - (ii) on or after the commencement date but before 20th December 2012; or
- (b) in any other case in which the Public Services Ombudsman for Wales considers that a member of a police authority in Wales has failed, or may have failed, to comply with the authority's code of conduct prior to the commencement date and which has come to the Ombudsman's attention as a result of an investigation arising from an allegation made in accordance with paragraph (a) or (b).

(2) Where this article applies—

- (a) the provisions in Chapters 3 and 4 of Part 3 of the 2000 Act, and any regulations made under them, shall continue to apply to a member of a police authority in Wales as though the member was a member or co-opted member of a relevant authority in Wales; and
- (b) the allegation or case shall be determined in accordance with the provisions in the 2000 Act but with the following modifications—
 - (i) an investigation may not determine the finding that a matter should be referred to a monitoring officer under section 69(4)(c) or (5), and section 71(2) and (4)(b) shall therefore not apply;
 - (ii) where an investigation is ceased before completion, the matters under investigation may not be referred to a monitoring officer under section 70(4) or (5);
 - (iii) the requirements in section 71(1)(c) and (3)(c) to send a report to the monitoring officer and in section 71(1)(d) to inform the monitoring officer of the outcome of the investigation, do not apply;

(a) S.I. 2008/1085.

(iv) in section 73(7) the references to the Public Services Ombudsman for Wales referring any matter to the monitoring officer under section 70(4) or (5) or 71(2) or (4) shall not apply; and

(v) in section 79, if the person concerned is a member of another relevant authority in Wales, any notice required to be given to a standards committee under subsection (2), (7), (8) or (10) must instead be given to the standards committee of that other relevant authority and subsection (11) has effect accordingly.

(3) Notwithstanding article 2—

(a) section 50 of the 2000 Act and any order made under that section, and

(b) section 51 of that Act and any code adopted under that section,

continue to have effect for the purposes of enabling an allegation or case to be determined in accordance with this article.

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

Brandon Lewis

Parliamentary Under Secretary of State

Department for Communities and Local Government

20th November 2012

EXPLANATORY NOTE

(This note is not part of the Order)

This Order commences certain provisions of the Localism Act 2011 relating to standards and police authorities.

Police authorities established under section 3 of the Police Act 1996 are to be abolished on the 22nd November 2012, to be replaced with police and crime commissioners established under section 1 of the Police Reform and Social Responsibility Act 2011 (c. 13).

Article 2 commences section 36(b) which repeals the reference to a police authority in paragraph (k) of section 27(6) (which has not been commenced), thereby removing police authorities in England and Wales established under section 3 of the Police Act 1996 from the standards regime established under the Localism Act 2011.

Paragraphs (b) and (c) of article 2 commence the amendments and repeals made by Schedule 4 and in Part 5 of Schedule 5 so far as they relate to police authorities.

Articles 3 to 6 make transitional, transitory and savings provisions in relation to England and Wales.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1 partially and Schedule 1 as to England	18th February 2012	2012/411
	4th April 2012	2012/1008
Sections 2 to 7 as to England	18th February 2012	2012/411
Section 8 as to England and Wales	3rd December 2011	2011/2896
	18th February 2012	2012/411
Sections 9 and 10 partially as to England and Wales	18th February 2012	2012/411
Sections 11 to 14 as to England and Wales	18th February 2012	2012/411

Sections 15 to 19 as to England and Wales	3rd December 2011	2011/2896
	15th January 2012	2012/57
Section 20 partially as to England and Wales	3rd December 2011	2011/2896
	15th January 2012	2012/57
Section 21 and Schedule 2 as to England and Wales	3rd December 2011	2011/2896
	15th January 2012	2012/57
	9th March 2012	2012/628
	4th May 2012	2012/1008
Section 22 and Schedule 3 as to England and Wales	15th January 2012	2012/57
	9th March 2012	2012/628
	4th May 2012	2012/1008
Section 24 as to England and Wales	15th January 2012	2012/57
Section 26 and Schedule 4 partially as to England and Wales	31st January 2012	2012/57
	1st April 2012	2012/628
	7th June 2012	2012/1463
	1st July 2012	2012/1463
Sections 27 to 29 partially as to England and Wales	7th June 2012	2012/1463
	1st July 2012	2012/1463
Section 30 partially as to England and Wales	31st January 2012	2012/57
Section 30 as to England and Wales so far as not yet in force	1st July 2012	2012/1463
Sections 31 and 33 partially as to England and Wales	7th June 2012	2012/1463
	1st July 2012	2012/1463
Section 35 partially as to England and Wales	7th June 2012	2012/1463
Section 36 partially as to England and Wales	15th January 2012	2012/57
Section 46 as to England	1st April 2012	2012/628
Sections 48 to 57 as to England, Wales, Scotland and Northern Ireland	31st May 2012	2012/1008
Section 68 and 69 as to England	3rd December 2011	2011/2896
	15th January 2012	2012/57
	1st April 2012	2012/628
Section 70 as to England and Wales	15th January 2012	2012/57
Sections 72 to 79 and Schedules 5 to 7 as to England and Wales	3rd December 2011	2011/2896
Sections 81 to 85 partially as to England and Wales	27th June 2012	2012/1463
Sections 87 to 102 as to England	20th September 2012	2012/2420
Sections 105 to 108 as to England	20th September 2012	2012/2420
Section 115 as to England and Wales	15th January 2012	2012/57
Sections 116 and 121 and Schedules 9 to 12 partially as to England and Wales	15th January 2012	2012/57
	6th April 2012	2012/628
	3rd August 2012	2012/2029
Sections 123 to 127 as to England and Wales	15th January 2012	2012/57
	6th April 2012	2012/628
Sections 128 to 142 and Schedule 13 as to England, Wales and Scotland	15th January 2012	2012/57
	1st April 2012	2012/628
Section 145 to 147 partially as to England and Wales	15th January 2012	2012/57
	7th June 2012	2012/1463
Sections 148 and 149 as to England	9th November 2012	2012/2599
Sections 150 to 153 as to England and Wales	15th January 2012	2012/57
	18th June 2012	2012/1463

	15th January 2013	2012/1008
Sections 154 and 155 as to England and Wales	15th January 2012	2012/57
	1st April 2012	2012/628
Sections 156 to 161 and Schedule 14 as to England and Wales	15th January 2012	2012/57
	1st April 2012	2012/628
	4th April 2012	2012/1008
Section 162 partially as to England and Wales	1st April 2012	2012/628
Sections 163 and 164	1st April 2012	2012/628
Section 165 partially as to England and Wales	15th January 2012	2012/57
Section 165 as to England and Wales so far as not yet in force	1st April 2012	2012/628
Section 166 as to England and Wales	1st April 2012	2012/628
Section 176 as to England and Wales	15th January 2012	2012/57
Sections 178 and 179 and Schedules 16 and 17 as to England and Wales	15th January 2012	2012/57
	1st April 2012	2012/628
Section 184 as to England and Wales	6th April 2012	2012/628
Section 185 as to England and Wales	1st April 2012	2012/628
Sections 186 to 195 as to England and Wales	15th January 2012	2012/57
	31st March 2012	2012/628
	1st April 2012	2012/628
	3rd May 2012	2012/1008
Section 197 partially as to England and Wales	15th January 2012	2012/57
Sections 223 to 231 and Schedule 23 as to England and Wales	15th January 2012	2012/57
	3rd May 2012	2012/1008
Section 232 as to England and Wales	6th April 2012	2012/628
Section 233 and Schedule 24 as to England and Wales	30th March 2012	2012/628
Section 237 partially and Parts 1, 2 (partially), 3 to 5, 7, 9 to 13, 18 to 21, 23, 26, 27, and 30 to 34 of Schedule 25 as to England and Wales	15th January 2012	2012/57
	31 January 2012	2012/57
	18th February 2012	2012/411
	9th March 2012	2012/628
	31st March 2012	2012/628
	1st April 2012	2012/628
	4th April 2012	2012/1008
	6th April 2012	2012/628
	3rd May 2012	2012/1008
	7th June 2012	2012/1463
3rd August 2012	2012/2029	