

10 November 2008

Chief Executives
All Local Authorities in England & Wales

The Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008 (S.I. 2008/2840)

Baroness Andrews has signed a Legislative Reform Order, which came into force on 30th October 2008, to remove four requirements on local authorities to obtain consent or approval from the Secretary of State, Welsh Ministers or the Attorney General:

- before instituting prosecutions for publishing advertisements on cancer treatment under the **Cancer Act 1939** (article 2);
- to enable amalgamation of taxi licensing zones under the **Local Government Act 1972** (article 3);
- to provide advice/ assistance to bodies overseas under the **Local Government (Overseas Assistance) Act 1993** (article 4); and
- for dealing with complaints in relation to Pupil Referral Units under the **Education Act 1996** (article 5).

Further explanation of the purpose and effect of the Regulatory Reform Order is contained in **Annex A**. The Order can be accessed at:

http://www.opsi.gov.uk/si/si2008/uksi_20082840_en_1

Please could you could cascade this information to those in your legal department and other staff with responsibility for local government legislation.

Yours sincerely



Yvonne Dove

Annex A

In 2002, the then Office of the Deputy Prime Minister (now Department for Communities and Local Government) announced a programme of action to deregulate 84 consent requirements to give local authorities more freedom to take local decisions. Of these, 67 consent regimes had been deregulated before the Legislative Reform (Local Authority Consent Requirements) (England and Wales) Order 2008 ("the LRO") came into force on 30th October 2008. The LRO deregulates a further four consent regimes.

The purpose of the LRO is to remove four requirements on local authorities to obtain consent or approval from the Secretary of State or the Welsh Ministers or, in one case, the Attorney General, to the carrying out of certain statutory functions. The removal of the four requirements relate to:

(a) **Section 4 of the Cancer Act 1939.** Under the Act it is usually 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. Prior to 30th October 2008, a prosecution for such an offence could 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 had a duty to institute proceedings under section 4 (subsection (7)). Article 2 of the LRO removes the burden of seeking consent, updates the references to a council of a county or county borough to reflect changes in local government structure and nomenclature, and provides the local authority with a discretionary power to prosecute for an offence.

(b) **Section 171(4) of the Public Health Act 1875.** Incorporated in that Act are 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. Before 30th October 2008, by virtue of sub-paragraph (4) of paragraph 25, a resolution did not have effect unless approved by the Secretary of State or, in Wales, by Welsh Ministers. Article 3 of the LRO removes the burden of seeking approval and includes a transitional provision for resolutions passed before 30th October 2008 but which have not been approved or disapproved before that date.

(c) **Section 1 of the Local Government (Overseas Assistance) Act 1993.** Subsection (1) 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 prevented a local authority exercising the power in subsection (1) unless it was exercised with the consent of the Secretary of State or in accordance with a general authorisation given by him/her. Article 4 of the LRO removes the burden of seeking such consent or authorisation.

(d) **Paragraph 6 of Schedule 1 to the Education Act 1996.** This 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 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 the approval of the Secretary of State or, in Wales, of the Welsh Ministers in relation to the arrangements under sub-paragraph (3), is removed by article 5 of the LRO.