

STATUTORY INSTRUMENTS 2009 No. 1255
LOCAL GOVERNMENT, ENGLAND AND WALES

The Standards Committee (Further Provisions) (England)

Regulations 2009

Made - - - - 18th May 2009

Laid before Parliament 21st May 2009

Coming into force - - 15th June 2009

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 53 of the Local Government Act 2000 (“the Act”) requires relevant authorities in England and Wales (defined in section 49(6) of the Act) to establish standards committees to exercise functions conferred under Part 3 of the Act and Part 1 of the Local Government and Housing Act 1989 (“the 1989 Act”).

Section 57A of the Act enables people to make written allegations to the standards committee of a relevant authority in England that a member or co-opted member (or former member or former co-opted member) of the authority has failed to comply with the authority’s code of conduct. Section 57B of the Act makes provision for reviews of decisions by standards committees to take no action in respect of an allegation.

Section 57C makes provision for information to be given to the subject of an allegation by the standards committee. The Standards Committee (England) Regulations 2008 (SI 2008/1085) make provision for dealing with such allegations.

Section 81 of the Act requires the mandatory provisions of a model code of conduct applicable to relevant authorities to prevent or restrict the participation of a member or co-opted member of a relevant authority in any business in which that person has an interest which that person is required to register in the authority’s register of members’ interests. Subsection (5) of that section enables the making of regulations to prescribe circumstances in which standards committees may grant dispensations to permit a member or co-opted member to participate in business notwithstanding the existence of an interest.

These Regulations make further provision in respect of standards committees.

Part 2 provides for the Standards Board for England (“the Standards Board”) to give a direction to a standards committee to suspend its functions under sections 57A (2) to (4), 57B (4) and 57C (2) to (4) (“the initial assessment functions”) and to provide for those functions to be exercised either by the Standards Board or by the standards committee of another authority.

Part 3 makes provision enabling relevant authorities to establish joint standards committees with other relevant authorities to discharge any or all of their functions under Part 3 of the Act or Part 1 of the 1989 Act.

Part 4 revokes the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2002 (SI 2002/339) and replaces them with new provisions.

Regulations 1 and 2 contain citation, commencement, application and interpretation provisions.

Regulation 3 prescribes the circumstances in which the Standards Board may exercise the power in section 57D (1) of the Act to give a direction which has the effect of suspending the initial assessment functions of standards committees. The circumstances are:—

- the standards committee has failed to have regard to guidance issued by the Standards Board;
- the standards committee has failed to comply with a direction issued by the Standards Board;
- the standards committee or monitoring officer has failed to carry out functions in relation to the conduct of members within a reasonable time or in a reasonable manner; or
- the authority or standards committee has invited the Standards Board to give a direction.

Regulation 4 prescribes the circumstances in which the Standards Board may revoke a direction.

Regulations 5 to 8 make provision as to the process for the giving of a direction to a standards committee and for the amendment to, or revocation of, a direction. They also impose an obligation on the Standards Board to give standards committees the opportunity to make representations and to take account of those representations before giving a direction.

Regulations 9 to 11 apply provisions in Part 3 of the Act and in the Standards Committee (England) Regulations 2008 with some modifications, in situations when a direction under section 57D (1) is in force. Regulation 9 applies when the direction specifies the Standards Board as the body which performs the initial assessment functions of the standards committee which has received the direction. Regulation 10 applies where the direction specifies the standards committee of another relevant authority as the body which performs those initial assessment functions. Regulation 11 applies to reviews of decisions by standards committees, or the Standards Board to take no action in respect of an allegation, when a direction is in force.

Regulation 12 requires standards committees which have been given a direction suspending their initial assessment functions, to respond to consultation by a Local Commissioner or the Public Services Ombudsman for Wales by providing details of the body which has taken over the initial assessment of allegation functions.

Regulation 13 makes provision as to service of documents.

Regulations 14 and 15 enable two or more relevant authorities **to establish joint standards committees to perform any functions under Part 3 of the Act or regulations** made under the Act or the function of the grant and supervision of exemptions from political restrictions imposed by Part 1 of the 1989 Act. They permit relevant authorities to decide which functions they wish to be exercised by a joint standards committee and require terms of reference to be agreed and sent to the Standards Board specifying which functions are to be exercised by the joint standards committee. They also provide that other enactments applicable to standards committees apply, with necessary modifications, to functions performed by joint standards committees and specify how certain modifications are to apply.

Regulations 16 and 17 prescribe the **circumstances in which standards committees may grant dispensations to members or co-opted members** who would otherwise be prohibited from engaging in the business of a relevant authority. If a member or co-opted member acts in accordance with the grant of a dispensation, any participation in business prohibited by the mandatory provisions of a model code of conduct issued under section 50(1) of the Act is not a failure to comply with the authority's code of conduct.

The circumstances in which a standards committee may grant a dispensation are:—

- where, but for the grant of any other dispensation in relation to that business, more than 50% of the members who would otherwise be entitled to vote at a meeting are prohibited from voting; or
- **where, but for the grant of any other dispensation in relation to that business, the number of members that are prohibited from voting at a meeting would upset the political balance of the meeting to such an extent as to prejudice the outcome of voting in the meeting.**

Regulation 17(2) provides that a dispensation can only be granted in respect of business conducted during the period of 4 years after the date on which the dispensation is granted. It also specifies that the circumstances in which dispensations can be granted do not extend to allowing a member of an overview and scrutiny committee to participate in the scrutiny of a decision in which that member was involved, or to allow an individual member of the executive of an authority to exercise executive functions solely.

Regulation 18 requires standards committees to keep records of dispensations granted under regulation 17. Regulation 19 revokes the Relevant Authorities (Standards Committees) (Dispensations) Regulations 2000.