

**Circular No. 6
October 1999**

**Future of Committees and Controlling Authorities
Chapter 4 and Schedule 2**

“The planned date of commencement of the *Local Government Act 1999* is 1 January 2000.

However, Councils need take no action to re-constitute existing council committees, including advisory committees and sub-committees, until after the May 2000 elections when Councils would, as a matter of course, review their committee structure.

Section 199 authorities will automatically become council committees, unless the Minister for Local Government notifies in the Gazette that they are council subsidiaries. Section 200 authorities will automatically become regional subsidiaries.”

Chapter 4, together with Schedule 2, of the *Local Government Act 1999* (“the 1999 Act”) sets out the provisions under which councils establish committees and subsidiaries. The *Local Government (Implementation) Bill 1999* (which was introduced into Parliament on 29 September 1999) includes transitional provisions relating to council committees, single controlling authorities (section 199 authorities) and regional controlling authorities (section 200 authorities).

This circular addresses transitional arrangements for council committees, and section 199 and 200 authorities established under the *Local Government Act 1934*.

This circular should be read together with Circular 7 - Meetings.

**Transitional Provisions
Committees**

All council committees in existence immediately before commencement continue under the 1999 Act. For the purposes of the 1999 Act or any other Act, council committees will be taken to have been constituted under the 1999 Act (s 12 (1) of the Implementation Bill).

For the purpose of this transitional provision, “council committee” includes sub-committees and advisory committees.

So Councils need take no action to re-constitute existing council committees, advisory committees, or sub-committees. Unlike the 1934 Act, the 1999 Act permits councils to appoint persons to council committees who are not members of the council. Therefore, there is no need to retain a distinction between advisory committees and committees of council.

Controlling Authorities

Under clause 24 of the Implementation Bill, section 199 controlling authorities established by a council under the 1934 Act will automatically become council committees. Where Councils believe a particular S199 authority is suitable for incorporation as a single council subsidiary, Ministerial approval is to be sought and gazettal notice is required (section 42 and Part 1 of Schedule 2 of the 1999 Act - see Incorporation of S199 Authorities, overleaf).

Under clause 25 of the Implementation Bill, Section 200 authorities will automatically become regional subsidiaries under section 43 and Part 2 of Schedule 2 of the 1999 Act.

The following transitional provisions will apply to regional controlling subsidiaries and subsidiaries incorporated by the Minister by notice in the Gazette:

- an existing controlling authority's rules will be taken to be the charter of the subsidiary;
- any non-compliance concerning the charter of the subsidiary with the requirements of Schedule 2 of the 1999 Act may be disregarded up until 1.1. 2002;
- persons constituting the membership of the existing controlling authority will be taken to constitute the board of management of the subsidiary;
- in relation to section 200 authorities, a subsidiary is not required to have a business plan up until 1.7.2000.

Reporting Requirements

Under s 41(8) of the Local Government Act 1999, a Council must, when establishing a committee, determine the reporting and accountability requirements that are to apply in relation to the committee.

Section 41(9) of the 1999 Act requires that committees performing regulatory activities report to council at least quarterly.

Transitional Arrangements regulations will be developed to provide that former committees continued under the 1999 Act or former section 199 authorities will not need to have or meet these new reporting requirements immediately, but will ensure that, after a period, Councils have determined adequate reporting and accountability requirements for all their committees. Such regulations could require Councils, in conjunction with reviewing the purpose and membership of its committees following the May 2000 elections, to review and determine the reporting and other accountability arrangements which are to apply to any continuing committee which

was in existence (whether as a committee or a controlling authority) immediately before the commencement of the 1999 Act.

INCORPORATION OF S199 AUTHORITIES

The purpose, form and rules of a particular section 199 authority may be such that the Council believes that the authority is suitable for incorporation as a single council subsidiary on 1.1.2000.

Information on the details required to facilitate the gazettal of a single council subsidiary can be obtained from Ms Chris Anderson at the Office of Local Government on (08) 8207 0608.

In the event that a council is undecided as to whether to seek incorporation of current section 199 authorities as separately incorporated subsidiaries, time should be taken over the decision.

The former authorities can be conducted as council committees until such time as a decision is reached. Ministerial approval pursuant to Schedule 2 Part 1 of the 1999 Act can then be sought for incorporation, if required.

Transitional Arrangements regulations will assist in the transition to incorporation in such a case, particularly with respect to the requirements for a new charter and membership. These arrangements will apply until the conclusion of Council elections in May 2000.

Do you have other transition issues on controlling authorities and committees not covered by this circular and need further information? For advice or assistance in relation to this circular or the new Local Government legislation, you are welcome to contact us at:

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