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STATUTORY INSTRUMENTS

2000 No. 2853

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000

<i>Made</i>	- - - -	<i>19th October 2000</i>
<i>Laid before Parliament</i>		<i>26th October 2000</i>
<i>Coming into force</i>	- -	<i>16th November 2000</i>

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred on him by sections 13 and 105 of the Local Government Act 2000⁽¹⁾ hereby makes the following Regulations:

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and shall come into force on 16th November 2000.

(2) These Regulations apply in relation to local authorities in England.

(3) In these Regulations—

“the 1972 Act” means the Local Government Act 1972⁽²⁾;

“the 1998 Act” means the School Standards and Framework Act 1998⁽³⁾.

Commencement Information

II Reg. 1 in force at 16.11.2000, see [reg. 1\(1\)](#)

Functions not to be the responsibility of an authority's executive

2.—(1) The functions of a local authority specified in column (1) of Schedule 1 to these Regulations by reference to the enactments, directions and circulars specified in relation to those functions in column (2) are not to be the responsibility of an executive of the authority.

(2) The functions of—

(1) 2000 c. 22.

(2) 1972 c. 70.

(3) 1998 c. 31.

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- (a) imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted—
 - (i) in the exercise of a function specified in column (1) of Schedule 1; or
 - (ii) otherwise than by an executive of the authority, in the exercise of any function under a local Act; and
 - (b) determining any other terms to which any such approval, consent, licence, permission or registration is subject,
- are not to be the responsibility of an executive of the authority.

(3) The function of determining whether, and in what manner, to enforce—

- (a) any failure to comply with an approval, consent, licence, permission or registration granted as mentioned in paragraph (2)(a);
- (b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject; or
- (c) any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of an executive of the authority,

is not to be the responsibility of an executive of the authority.

(4) The function of—

- (a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned in paragraph (2), or any condition, limitation or term to which it is subject; or
- (b) revoking any such approval, consent, licence, permission or registration,

is not to be the responsibility of an executive of the authority.

(5) The function of making any scheme authorised or required by regulations under section 18 (schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989(4), or of amending, revoking or replacing any such scheme, is not to be the responsibility of an executive of the authority.

(6) The function of determining—

- (a) the amount of any allowance payable under—
 - (i) subsection (5) of section 3 (chairman’s expenses) of the 1972 Act;
 - (ii) subsection (4) of section 5 (vice-chairman’s expenses) of that Act;
 - (iii) subsection (4) of section 173 (financial loss allowance) of that Act(5);
 - (iv) section 175 (allowances for attending conferences and meetings) of that Act;
- (b) the rates at which payments are to be made under section 174 (travelling and subsistence allowances) of that Act;
- (c) the amount of any allowance payable pursuant to a scheme under section 18 of the Local Government and Housing Act 1989, or the rates at which payments by way of any such allowance are to be made;
- (d) whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of an executive of the authority; and

(4) 1989 c. 42. Section 18 is amended by section 99(3) to (9) of the Local Government Act 2000.

(5) Section 173(4) was amended by the Local Government and Housing Act 1989 (c. 42), Schedule 11, paragraph 26. A relevant saving was made by article 3(2) of the Local Government and Housing Act 1989 (Commencement No. 11 and Savings) Order 1991 (S.I. 1991/344).

(e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge,

is not to be the responsibility of an executive of the authority.

(7) Section 101 (arrangements for discharge of functions by local authorities) of the 1972 Act shall not apply with respect to the discharge of any function mentioned in paragraph (5) or (6)(a) to (c).

(8) Subject to any provision of regulations under section 20 (joint exercise of functions) of the Local Government Act 2000, the function of—

(a) making arrangements for the discharge of functions by a committee or officer under section 101(5) of the 1972 Act; and

(b) making appointments under section 102 (appointment of committees) of the 1972 Act, is not to be the responsibility of an executive of the authority.

(9) The functions of York City Council in relation to the management of the Yorkshire Museum and Gardens pursuant to an agreement dated 30th December 1960 between that Council and the Yorkshire Philosophical Society(6) are not to be the responsibility of an executive of that Council.

(10) The functions of South Lakeland District Council in relation to the management of land at Lake Windermere pursuant to an agreement dated 1st April 1975 between that Council, Windermere Parish Council and Lakes Parish Council(7) are not to be the responsibility of an executive of the District Council.

(11) Unless otherwise provided by any other provision of these Regulations, a function of a local authority which, by virtue of any enactment passed or made before the making of these Regulations, may be discharged only by an authority, is not to be the responsibility of an executive of the authority.

(12) In paragraphs (1) and (11), “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the Interpretation Act 1978(8)).

Commencement Information

12 Reg. 2 in force at 16.11.2000, see [reg. 1\(1\)](#)

Functions which may be the responsibility of an authority’s executive

3.—(1) The functions specified in Schedule 2 to these Regulations may be (but need not be) the responsibility of an executive of the authority.

(2) The functions of Hastings Borough Council in relation to the management of the Hastings and Saint Leonards Museum(9) may be (but need not be) the responsibility of an executive of the Council.

(3) Where the functions mentioned in paragraph (2) are the responsibility of the Council’s executive, the Hastings and Saint Leonards Museum Association may appoint persons who are for the time being members of the Association to attend any meeting of an overview and scrutiny committee of that Council, or of a sub-committee of any such committee (“the relevant committee or sub-committee”), at which the management of the Museum is the subject of consideration; and

(6) The agreement is referred to in regulation 5(2)(e)(ii) of the Local Government (Committees and Political Groups) Regulations 1990 (S.I. 1990/1553).

(7) The agreement is referred to in regulation 5(2)(e)(iii) of the Local Government (Committees and Political Groups) Regulations 1990.

(8) 1978 c. 30.

(9) See also regulation 5(2)(e)(i) of the Local Government (Committees and Political Groups) Regulation 1990 (S.I. 1990/1553).

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the persons so appointed shall, subject to paragraph (4), be entitled to speak and vote at the meeting on any question relating to the management of the Museum which falls to be decided at the meeting.

(4) The number of persons appointed as mentioned in paragraph (3) shall, as nearly as may be, bear to the number for the time being of members of the relevant committee or sub-committee, the same proportion as 2 bears to 5, but the number of persons representing the Association at any such meeting as is referred to in that paragraph as are entitled to vote shall not exceed the number of members of the relevant committee or sub-committee present at that meeting.

Commencement Information

I3 Reg. 3 in force at 16.11.2000, see [reg. 1\(1\)](#)

Functions not to be the sole responsibility of an authority's executive

4.—(1) In connection with the discharge of the function—

- (a) of formulating or preparing a plan or strategy of a description specified in column (1) of Schedule 3 to these Regulations;
- (b) of formulating a plan or strategy for the control of the authority's borrowing or capital expenditure; or
- (c) of formulating or preparing any other plan or strategy whose adoption or approval is, by virtue of regulation 5(1), a matter for determination by the authority,

the actions designated by paragraph (3) ("the paragraph (3) actions") shall not be the responsibility of an executive of the authority.

(2) Except to the extent of the paragraph (3) actions, any such function as is mentioned in paragraph (1) shall be the responsibility of such an executive.

(3) The actions designated by this paragraph are—

- (a) the giving of instructions requiring the executive to reconsider any draft plan or strategy submitted by the executive for the authority's consideration;
- (b) the amendment of any draft plan or strategy submitted by the executive for the authority's consideration;
- (c) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; and
- (d) the adoption (with or without modification) of the plan or strategy.

(4) The function of amending, modifying, varying or revoking any plan or strategy of a description referred to in paragraph (1), (whether approved or adopted before or after the coming into force of these Regulations)—

- (a) shall be the responsibility of an executive of the authority to the extent that the making of the amendment, modification, variation or revocation—
 - (i) is required for giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for his approval, or to any part so submitted; or
 - (ii) is authorised by a determination made by the authority when approving or adopting the plan or strategy, as the case may be; and
- (b) shall not be the responsibility of such an executive to any other extent.

(5) Except to the extent mentioned in paragraph (6), the function of making an application—

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(a) under subsection (5) of section 135 (programmes for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993(10), or
(b) under section 32 (power to dispose of land held for the purposes of Part II) or section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985(11), shall be the responsibility of an executive of the authority.

(6) The extent mentioned in this paragraph is the authorisation of the making of the application.

(7) The function of making such an application as is referred to in paragraph (5), to the extent mentioned in paragraph (6), shall not be the responsibility of an executive of the authority.

(8) Section 101 of the 1972 Act shall not apply with respect to the discharge—

(a) of a function specified in paragraph (1) to the extent that, by virtue of that paragraph, it is not the responsibility of an executive of the authority;

(b) of the functions specified in paragraphs (4) and (5) to the extent that they are not the responsibility of an executive of the authority.

(9) In connection with the discharge of the function of—

(a) making a calculation in accordance with any of sections 32 to 37, 43 to 49, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992(12), whether originally or by way of substitute; or

(b) issuing a precept under Chapter IV of Part I of that Act,

the actions designated by paragraph (11) (“the paragraph (11) actions”) shall be the responsibility of an executive of the authority.

(10) Except to the extent of the paragraph (11) actions, any such function as is mentioned in paragraph (9) shall not be the responsibility of such an executive.

(11) The actions designated by this paragraph are—

(a) the preparation, for submission to the authority for their consideration, of—

(i) estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation; or

(ii) the amounts required to be stated in the precept;

(b) the reconsideration of those estimates and amounts in accordance with the authority’s requirements;

(c) the submission for the authority’s consideration of revised estimates and amounts.

Commencement Information

I4 Reg. 4 in force at 16.11.2000, see [reg. 1\(1\)](#)

Discharge of executive functions by authorities

5.—(1) Subject to paragraph (2), a function of any of the descriptions specified in column (1) of Schedule 4 to these Regulations (which, but for this paragraph, might be the responsibility of an executive of the authority), shall not be the responsibility of such an executive in the circumstances specified in column (2) in relation to that function.

(10) 1993 c. 28, to which there are amendments not relevant to these Regulations.

(11) 1985 c. 68. Relevant amendments, in subsection (3) of section 32 and subsection (1)(a) of section 43, were made by paragraph 3(a), (d) and (e) of the Schedule to S.I. 1997/74.

(12) 1992 c. 14. Sections 52I, 52J, 52T and 52U were inserted by the Local Government Act 1999 (c. 27) Schedule 1, paragraph 1.

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(2) Paragraph (1) shall not apply in relation to the discharge of a function of the description specified in paragraph 3 of column (1) of Schedule 4 where—

- (a) the circumstances which render necessary the making of the determination may reasonably be regarded as urgent; and
- (b) the individual or body by whom the determination is to be made has obtained from the chairman of a relevant overview and scrutiny committee or, if there is no such person, or if the chairman of every relevant overview and scrutiny committee is unable to act, from the chairman of the authority or, in his absence, from the vice-chairman, a statement in writing that the determination needs to be made as a matter of urgency.

(3) In paragraph (2) “relevant overview and scrutiny committee” means an overview and scrutiny committee of the authority concerned whose terms of reference include the power to review or scrutinise decisions or other actions taken in the discharge of the function to which the determination relates.

(4) The individual or body by whom a determination is made pursuant to paragraph (2) shall, as soon as reasonably practicable after the making of the determination, submit to the authority a report which shall include particulars of—

- (a) the determination;
- (b) the emergency or other circumstances in which it was made; and
- (c) the reasons for the determination.

(5) Section 101 of the 1972 Act shall not apply with respect to the discharge of a function referred to in paragraph (1) which, by virtue of that paragraph, is not the responsibility of an executive of the authority.

Commencement Information

I5 Reg. 5 in force at 16.11.2000, see [reg. 1\(1\)](#)

Signed by authority of the Secretary of State for the Environment, Transport and the Regions

Hilary Armstrong
Minister of State,
Department of the Environment, Transport and
the Regions

19th October 2000

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SCHEDULE 1

Regulation 2(1)

FUNCTIONS NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Commencement Information

I6 Sch. 1 in force at 16.11.2000, see [reg. 1\(1\)](#)

(1) Function	(2) Provision of Act or Statutory Instrument
A. Functions relating to town and country planning and development control	
1. Power to determine application for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c. 8).
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.
3. Power to grant planning permission for development already carried out.	Section 73A(13) of the Town and Country Planning Act 1990.
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990(14).
5. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made thereunder.
6. Power to determine application for planning permission made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (S.I. 1992/1492)(15).
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).
8. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990(16).
10. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990.

(13) Section 73A was inserted by the Planning and Compensation Act [1991 \(c. 34\)](#), Schedule 7, paragraph 8.

(14) Section 70A was inserted by the Planning and Compensation Act 1991, section 17.

(15) Section 316 was substituted by section 20 of the Planning and Compensation Act 1991. Relevant amending instruments are S.I. [1992/1982](#) and [1998/2800](#).

(16) Sections 191 and 192 were substituted by section 10 of the Planning and Compensation Act 1991.

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(1) Function	(2) Provision of Act or Statutory Instrument
11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (17) .
12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990 (18) .
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990 (19) .
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990 (20) .
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990 (21) .
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c. 10).
18. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.
19. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.
20. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 (c. 9).
21. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act (22) .
22. Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations

(17) S.I. 1992/666, to which there are amendments not relevant to these Regulations.

(18) Section 196A was inserted by section 11 of the Planning and Compensation Act 1991. For the circumstances in which the right may be exercised, see sections 196A to 196C of the Town and Country Planning Act 1990.

(19) Sections 171C and 187A were inserted by sections 1 and 2 of the Planning and Compensation Act 1991. Subsections (1) to (5A) of section 183 were substituted by section 9 of the Planning and Compensation Act 1991.

(20) Section 172 was substituted by section 5 of the Planning and Compensation Act 1991.

(21) Section 187B was inserted by section 3 of the Planning and Compensation Act 1991.

(22) See also the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 (S.I. 1990/1519), to which there are amendments not relevant to these Regulations.

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(1) Function	(2) Provision of Act or Statutory Instrument
	1990 and paragraphs 8, 15 and 22 of Department of the Environment Circular 14/97.
23. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
24. Power to issue enforcement notice in relation to demolition of unlisted building in conservation area.	Section 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
25. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
26. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990(23).
27. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	
1. Power to issue licences authorising the use of land as a caravan site (“site licences”).	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c. 49).
3. Power to license hackney carriages and private hire vehicles.	<p>(a) (a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57);</p> <p>(b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.</p>
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 .

(23) Section 44A was inserted by the [Planning and Compensation Act 1991 \(c. 34\)](#), Schedule 3, paragraph 7.

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(1) Function	(2) Provision of Act or Statutory Instrument
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2)(24).
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963(25).
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963(26).
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65)(27).
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32)(28).
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976(29).
12. Power to issue cinema and cinema club licences.	Section 1 of the Cinema Act 1985 (c. 13).
13. Power to issue theatre licences.	Sections 12 to 14 of the Theatres Act 1968 (c. 54)(30).
14. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c. 12), section 52 of, and Schedule 12 to, the London Government Act 1963 (c. 33), section 79 of the Licensing Act 1964 (c. 26), sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 (c. 19) and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).
17. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.	Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982.

(24) To which there are amendments not relevant to these Regulations.

(25) To which there are amendments not relevant to these Regulations.

(26) Schedule 5ZA was inserted by S.I. 1995/3231, article 5(6).

(27) To which there are amendments not relevant to these Regulations.

(28) To which there are amendments not relevant to these Regulations.

(29) To which there are amendments not relevant to these Regulations.

(30) Amended by the Local Government Act 1972, section 204(6) and the Local Government, Planning and Land Act 1980, section 1(6), Schedule 6 paragraph 11 and Schedule 34, Pt VI.

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(1) Function	(2) Provision of Act or Statutory Instrument
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53)(31).
19. Power to register door staff.	Paragraphs 1(2) and 9 of Schedule 12 to the London Government Act 1963 (c. 33) and Part V of the London Local Authorities Act 1995 (c. x).
20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982, Part III of the London Local Authorities Act 1990 (c. vii) and section 6 of the London Local Authorities Act 1994 (c. xii).
21. Power to license night cafes and take-away food shops.	Section 2 of the Late Night Refreshment Houses Act 1969 (c. 53)(32), Part II of the London Local Authorities Act 1990 and section 5 of the London Local Authorities Act 1994.
22. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c. 66)(33).
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licensing Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), sections 12(3) and 27 of the Local Government Act 1874 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c. 69).
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52)(34).
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c. 27).
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971 (c. 40).

(31) Amended by the Local Government Act 1974 (c. 7), Schedule 6, paragraph 1, section 18 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57) and section 186 of the Local Government, Planning and Land Act 1980 (c. 65). Section 94(8) was substituted by the Deregulation (Public Health Acts Amendment Act) Order 1997 (S.I. 1997/1187).

(32) Amended by the Local Government Act 1972, section 204(9) and the London Local Authorities Act 1990 (c.vii), section 20.

(33) Section 5 was amended by the Local Government, Planning and Land Act 1980, Schedule 6, paragraph 13(1).

(34) Amended by the Fire Safety and Safety of Places of Sport Act 1987 (c. 27). See, in particular, Part II of, and Schedule 2 to, that Act.

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(1) Function	(2) Provision of Act or Statutory Instrument
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951 (c. 35)(35); section 1 of the Animal Boarding Establishments Act 1963(c. 43)(36); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70)(37); section 1 of the Breeding of Dogs Act 1973 (c. 60)(38), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
31. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38)(39).
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37)(40).
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c. 33), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).
36. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c. 76) and the Marriages (Approved Premises) Regulations 1995 (S. I. 1995/510)(41).
37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to—	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).
(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or	

(35) Amended by the Local Government Act 1974, section 42 and Schedule 8.

(36) Amended by the Local Government Act 1974, Schedule 6, paragraph 17 and by the Protection of Animals (Amendment) Act 1988 (c. 29), section 3(2) and (3) and the Schedule.

(37) Amended by the Local Government Act 1974, section 35(1) and (2) and Schedule 6, paragraph 18 and by the Protection of Animals (Amendment) Act 1988, section 3(2) and (3) and the Schedule.

(38) Section 1 was amended by the Local Government, Planning and Land Act 1980, section 1(6), Schedule 6, Schedule 34, paragraph 15 and by the Protection of Animals (Amendment) Act 1988, section 3(2) and (3) and the Schedule.

(39) Amended by the Local Government Act 1974 sections 35(1) and (2) and 42, Schedule 6, paragraph 2(1) and Schedule 8.

(40) Amended by the Local Government, Planning and Land Act 1980, Schedule 6, paragraph 6, and by section 3 of the Protection of Animals (Amendment) Act 1988.

(41) Section 46A was inserted by section 1 of the Marriage Act 1994 (c. 34).

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(1) Function	(2) Provision of Act or Statutory Instrument
(b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).	
38. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471)(42).
39. Power to license persons to collect for charitable and other causes.	Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 (c. 31) and section 2 of the House to House Collections Act 1939 (c. 44)(43).
40. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).
41. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c. 22).
42. Power to license agencies for the supply of nurses.	Section 2 of the Nurses Agencies Act 1957 (c. 16).
43. Power to issue licences for the movement of pigs.	Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).
44. Power to license the sale of pigs.	Article 13 of the Pigs (Records, Identification and Movement) Order 1995.
45. Power to license collecting centres for the movement of pigs.	Article 14 of the Pigs (Records, Identification and Movement) Order 1995.
46. Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).
47. Power to permit deposit of builder's skip on highway.	Section 139 of the Highways Act 1980 (c. 66).
48. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
49. Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.
50. Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.
51. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
52. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
53. Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.

(42) Amended by S.I. 1968/658.

(43) Amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).

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(1) Function	(2) Provision of Act or Statutory Instrument
54. Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980(43).
55. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations 1994 (S.I. 1994/3082)(44).
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086)(45).
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763)(46).
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.

(43) Amended by section 22 of the Local Government (Miscellaneous Provisions) Act 1982 (c. 30).

(44) Amended by regulation 2 of the Meat Products (Hygiene) (Amendment) Regulations 1999 (S.I. 1999/683).

(45) Amended by S.I. 1996/1699.

(46) Schedule 1A was inserted by S.I. 2000/930.

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(1) Function	(2) Provision of Act or Statutory Instrument
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
Power to register food business premises. 68	Regulation 9 of the Food Premises (Registration) Regulations 1991.
C. Functions relating to health and safety at work	
Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974 (c. 37)(47).
D. Functions relating to elections	
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983 (c. 2)(48).
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
3. Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 (c. 29) and subordinate legislation under that Part.
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7. Duty to provide assistance at European Parliamentary elections.	Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c. 10)(49).
8. Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.

(47) For the definition of “the relevant statutory provisions” see section 53(1) of the Health and Safety at Work etc. Act 1974. See also the definitions of “the existing statutory provisions” and “health and safety regulations” in section 53(1) and, as to “health and safety regulations”, section 15(1) of that Act which was substituted by the Employment Protection Act 1975 (c. 71), Schedule 15, paragraph 5.

(48) Subsection (4) of section 52 was substituted by the Representation of the People Act 1985 (c. 50), Schedule 4.

(49) Originally enacted as the European Assembly Elections Act 1978 and renamed by virtue of section 3 of the European Communities (Amendment) Act 1986 (c. 58). Schedule 1 was substituted by the European Parliamentary Elections Act 1999 (c. 1), Schedule 2.

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(1) Function	(2) Provision of Act or Statutory Instrument
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I. 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000 (c. 2) .
E. Functions relating to name and status of areas and individuals	
1. Power to change the name of a county, district or London borough.	Section 74 of the Local Government Act 1972.
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
4. Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972.
F. Power to make, amend, revoke or re-enact byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c. 30) (50) .
G. Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
H. Functions relating to pensions etc.	
1. Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c. 11) (51) .

[\(50\)](#) Section 14 of the Interpretation Act 1978 is applied to byelaws made under section 235 of the Local Government Act 1972 by section 22(1) of, and paragraph 3 of Part I of Schedule 2 to, the Interpretation Act 1978.

[\(51\)](#) As to section 7 see also section 99 of the Local Government Act [2000 \(c. 22\)](#). Section 12 of the Superannuation Act 1972 is amended by section 10 of the Pensions (Miscellaneous Provisions) Act [1990 \(c. 7\)](#).

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(1) Function	(2) Provision of Act or Statutory Instrument
2. Functions under the Fireman's Pension Scheme relating to pensions, etc. as respects persons employed as members of fire brigades maintained pursuant to section 4 of the Fire Services Act 1947.	Section 26 of the Fire Services Act 1947 (10 & 11 Geo.6 c. 41) (52) .
I. Miscellaneous functions	
1. Power to create footpaths and bridleways.	Section 26 of the Highways Act 1980 (c. 66) .
2. Power to stop up footpaths and bridleways.	Section 118 of the Highways Act 1980.
3. Power to divert footpaths and bridleways.	Section 119 of the Highways Act 1980.
4. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
5. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.
6. Duty to keep a definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981 (c. 69) .
7. Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.
8. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590). (53) .
9. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38) .
10. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Trees Regulations 1999 (S.I. 1999/1892).
11. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
12. Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981 (c. 69) .
13. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972 (54) .
14. Power to appoint staff.	Section 112 of the Local Government Act 1972.
15. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.

(52) To which there are amendments not relevant to these Regulations.

(53) Made under section 23 (regulations as to accounts) of the Local Government Finance Act [1982 \(c. 32\)](#) as amended by section 27 of the Audit Commission Act [1998 \(c. 18\)](#).

(54) See also sections 8 and 20 of the Local Government and Housing Act 1989.

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(1) Function	(2) Provision of Act or Statutory Instrument
16. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.

SCHEDULE 2

Regulation 3(1)

FUNCTIONS WHICH MAY BE (BUT NEED NOT BE) THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1.

Commencement Information

I7 Sch. 2 para. 1 in force at 16.11.2000, see [reg. 1\(1\)](#)

2. The determination of an appeal against any decision made by or on behalf of the authority.

Commencement Information

I8 Sch. 2 para. 2 in force at 16.11.2000, see [reg. 1\(1\)](#)

3. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998⁽⁵⁵⁾.

Commencement Information

I9 Sch. 2 para. 3 in force at 16.11.2000, see [reg. 1\(1\)](#)

4. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (appeals against exclusion of pupils).

Commencement Information

I10 Sch. 2 para. 4 in force at 16.11.2000, see [reg. 1\(1\)](#)

5. The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals).

Commencement Information

I11 Sch. 2 para. 5 in force at 16.11.2000, see [reg. 1\(1\)](#)

⁽⁵⁵⁾ 1998 c. 14. Section 34(4) replaces section 63(3) of the Social Security Administration Act 1992. The Council Tax Benefit Regulations 1992 (S.I. 1992/1814) and the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), to which there are amendments not relevant to these Regulations, continue to have effect, by virtue of section 17(2)(b) of the Interpretation Act 1978 (c. 30), notwithstanding the repeal of section 63(3) of the Social Security Administration Act 1992.

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6. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies).

Commencement Information

I12 Sch. 2 para. 6 in force at 16.11.2000, see [reg. 1\(1\)](#)

7. The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996(56) for enabling questions to be put on the discharge of the functions of a police authority.

Commencement Information

I13 Sch. 2 para. 7 in force at 16.11.2000, see [reg. 1\(1\)](#)

8. The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.

Commencement Information

I14 Sch. 2 para. 8 in force at 16.11.2000, see [reg. 1\(1\)](#)

9. The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999(57).

Commencement Information

I15 Sch. 2 para. 9 in force at 16.11.2000, see [reg. 1\(1\)](#)

10. Any function relating to contaminated land(58).

Commencement Information

I16 Sch. 2 para. 10 in force at 16.11.2000, see [reg. 1\(1\)](#)

11. The discharge of any function relating to the control of pollution or the management of air quality(59).

Commencement Information

I17 Sch. 2 para. 11 in force at 16.11.2000, see [reg. 1\(1\)](#)

12. The service of an abatement notice in respect of a statutory nuisance(60).

(56) 1996 c. 16.

(57) 1999 c. 27.

(58) Part IIA of the Environmental Protection Act 1990 (c. 43) and subordinate legislation under that Part.

(59) See the Pollution Prevention and Control Act 1999 (c. 24), Part IV of the Environment Act 1995 (c. 25), Part I of the Environmental Protection Act 1990 (c. 43) and the Clean Air Act 1993 (c. 11).

(60) Section 80(1) of the Environmental Protection Act 1990.

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Commencement Information

I18 Sch. 2 para. 12 in force at 16.11.2000, see [reg. 1\(1\)](#)

13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area(**61**).

Commencement Information

I19 Sch. 2 para. 13 in force at 16.11.2000, see [reg. 1\(1\)](#)

14. The inspection of the authority's area to detect any statutory nuisance(**62**).

Commencement Information

I20 Sch. 2 para. 14 in force at 16.11.2000, see [reg. 1\(1\)](#)

15. The investigation of any complaint as to the existence of a statutory nuisance(**63**).

Commencement Information

I21 Sch. 2 para. 15 in force at 16.11.2000, see [reg. 1\(1\)](#)

16. The obtaining of information under section 330 of the Town and Country Planning Act 1990(**64**) as to interests in land.

Commencement Information

I22 Sch. 2 para. 16 in force at 16.11.2000, see [reg. 1\(1\)](#)

17. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976(**65**).

Commencement Information

I23 Sch. 2 para. 17 in force at 16.11.2000, see [reg. 1\(1\)](#)

18. The making of agreements for the execution of highways works(**66**).

Commencement Information

I24 Sch. 2 para. 18 in force at 16.11.2000, see [reg. 1\(1\)](#)

19. The appointment of any individual—

(61) Section 8 of the Noise and Statutory Nuisance Act 1993 (c. 40).

(62) Section 79 of the Environmental Protection Act 1990.

(63) Section 79 of the Environmental Protection Act 1990.

(64) 1990 c. 8.

(65) 1976 c. 57.

(66) Section 278 of the Highways Act 1980 (c. 66), substituted by the New Roads and Street Works Act 1991 (c. 22), section 23.

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- (a) to any office other than an office in which he is employed by the authority;
- (b) to any body other than—
- (i) the authority;
- (ii) a joint committee of two or more authorities; or
- (c) to any committee or sub-committee of such a body,
- and the revocation of any such appointment.

Commencement Information

I25 Sch. 2 para. 19 in force at 16.11.2000, see [reg. 1\(1\)](#)

SCHEDULE 3

Regulation 4(1)

FUNCTIONS NOT TO BE THE SOLE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Commencement Information

I26 Sch. 3 in force at 16.11.2000, see [reg. 1\(1\)](#)

(1) <i>Plans and strategies</i>	(2) <i>Reference</i>
Annual Library Plan	Section 1(2) of the Public Libraries and Museums Act 1964 (c. 75).
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c. 27)(67).
Children's Services Plan	Paragraph 1A of Schedule 2 to the Children Act 1989 (c. 41)(68).
Community Care Plan	Section 46 of the National Health Service & Community Care Act 1990 (c. 19).
Community Strategy	Section 4 of the Local Government Act 2000 (c. 22).
Crime and Disorder Reduction Strategy	Sections 5 and 6 of the Crime and Disorder Act 1998 (c. 37).
Early Years Development Plan	Section 120 of the 1998 Act.
Education Development Plan	Section 6 of the 1998 Act.
Plans and alterations which together comprise the Development Plan	(a) (a) for Greater London and the metropolitan counties, section 27 of

(67) See the Local Government (Best Value) Performance Plans and Reviews Order 1999 (S.I. 1999/3251). Relevant guidance issued under section 6(4) of the Local Government Act 1999 may be found in Department of the Environment, Transport and the Regions Circular 10/99.

(68) Paragraph 1A was inserted by the Children Act (Amendment) (Children's Services Planning) Order 1996 (S.I. 1996/785).

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(1) <i>Plans and strategies</i>	(2) <i>Reference</i>
	the Town and Country Planning Act 1990 (c. 8)(69); (b) for districts outside Greater London and the metropolitan counties, section 54 of that Act.
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c. 37).

SCHEDULE 4

Regulation 5(1)

CIRCUMSTANCES IN WHICH FUNCTIONS ARE NOT TO BE THE RESPONSIBILITY OF AN AUTHORITY'S EXECUTIVE

Commencement Information

I27 Sch. 4 in force at 16.11.2000, see **reg. 1(1)**

(1) <i>Function</i>	(2) <i>Circumstances</i>
<p>1. The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy of a description referred to in regulation 4(1)(b) or Schedule 3.</p>	<p>The authority determines that the decision whether the plan or strategy should be adopted or approved should be taken by them.</p>
<p>2. The determination of any matter in the discharge of a function which—</p> <p>(a) is the responsibility of the executive; and</p> <p>(b) is concerned with the authority's budget, or their borrowing or capital expenditure.</p>	<p>The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made—</p> <p>(a) is minded to determine the matter contrary to, or not wholly in accordance with—</p> <p>(i) the authority's budget; or</p> <p>(ii) the plan or strategy for the time being approved or adopted by the authority in relation to their borrowing or capital expenditure; and</p> <p>(b) is not authorised by the authority's executive arrangements, financial regulations, standing orders or other rules or procedures to make a determination in those terms.</p>

(69) Relevant amendments are made by the Planning and Compensation Act 1991 (c. 34), Schedule 4, paragraph 29.

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(1) <i>Function</i>	(2) <i>Circumstances</i>
<p>3. The determination of any matter in the discharge of a function—</p> <p>(a) which is the responsibility of the executive; and</p> <p>(b) in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the authority.</p>	<p>The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made, is minded to determine the matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the authority.</p>

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 2000 provides for the discharge of a local authority's functions by an executive of the authority (which must take one of the forms specified in section 11(2) to (5) of the Act), unless those functions are specified as functions that are not to be the responsibility of the authority's executive.

These Regulations specify functions that are not to be the responsibility of an authority's executive or are to be the responsibility of such an executive only to a limited extent or only in specified circumstances.

Regulation 2(1) of these Regulations provides that the functions listed in Schedule 1 ("Schedule 1 functions") are not to be the responsibility of an authority's executive.

Regulation 2(2) provides that the function of imposing conditions, limitations, restrictions or other terms on any approval, consent, licence, permission or registration granted in the exercise of Schedule 1 functions, or functions under a local Act (unless in that case the approval, consent, licence, permission or registration was granted by an authority's executive), is not to be the responsibility of an authority's executive

Regulation 2(3) provides that the function of determining whether, and in what manner, to enforce contraventions of approvals, consents, licences, permissions or registrations granted in the exercise of Schedule 1 functions, or functions under a local Act (unless in that case the approval, consent, licence, permission or registration was granted by an authority's executive), is not to be the responsibility of an authority's executive. It also provides that the function of determining whether, and in what manner, to enforce other contraventions, in relation to matters for which an approval, consent, licence, permission or registration should have been sought, is not to be the responsibility of an authority's executive where the approval, consent, licence, permission or registration could have been granted in the exercise of Schedule 1 functions.

Regulation 2(4) provides that the function of amending, modifying, varying or revoking any approval, consent, licence, permission or registration to which regulation 2(2) applies is not to be the responsibility of an authority's executive.

Regulation 2(5) provides that the function of making any scheme authorised or required by regulations under section 18 of the Local Government and Housing Act 1989 (schemes for basic,

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attendance and special responsibility allowances for local authority members) or of amending, revoking or replacing any such scheme, is not to be the responsibility of an authority's executive.

Regulation 2(6) provides that the functions of determining the amount of various allowances payable to members of local authorities under the Local Government Act 1972 ("the 1972 Act"), the rates at which certain payments under that Act by way of allowances are to be made, the amounts payable under schemes under section 18 of the Local Government and Housing Act 1989 and the rates of payments under such schemes, are not to be the responsibility of an authority's executive. It also provides that the function of determining whether a charge should be made for any approval, consent, licence, permit or registration granted or issued in the exercise of Schedule 1 functions, and the amount of any such charge, are not to be the responsibility of an authority's executive.

The effect of regulation 2(7) is to prevent an authority from arranging for the discharge of the functions specified in regulation 2(5) or (6)(a) to (c) by a committee, sub-committee or officer. (Other functions referred to in regulation 2 which are not the responsibility of an authority's executive may be discharged by a committee, sub-committee or officer of the authority under arrangements under section 101 of the 1972 Act.)

Regulation 2(8) provides, within one exception, that the making of arrangements for the discharge of functions under section 101(5) of the 1972 Act and the appointment of committees under section 102 of the 1972 Act is not to be the responsibility of an authority's executive. The exception relates to provision made in regulations under section 20 of the Local Government Act 2000, which may allow the executive of an authority to make appointments under section 102 of the 1972 Act.

Regulation 2(9) and (10) makes special provision in relation to York City Council's functions relating to the management of the Yorkshire Museum and Gardens and to South Lakeland District Council's functions relating to the management of land at Lake Windermere. None of the functions referred to in those paragraphs is to be the responsibility of the relevant Council's executive.

Regulation 2(11) and (12) precludes an authority's executive from discharging functions which, in accordance with any public or local Act, or any subordinate legislation, must be discharged by the authority themselves, unless the discharge of the function by the executive is authorised by any other provision of these Regulations.

Regulation 3(1) provides that the functions mentioned in Schedule 2 may be (but need not be) the responsibility of an authority's executive.

Regulation 3(2) provides that Hastings Borough Council's functions relating to the management of the Hastings and Saint Leonard's Museum may be (but need not be) the responsibility of an authority's executive, and paragraphs (3) and (4) of that regulation make consequential and supplementary provision where those functions are the responsibility of the Council's executive.

Paragraphs (1) to (3) of regulation 4 allocate responsibility for various aspects of functions relating to the formulation and preparation of plans and strategies of the descriptions specified in Schedule 3 between an authority and their executive. They also apply to other plans and strategies whose adoption or approval is a matter for determination by the authority themselves in accordance with regulation 5(1). Paragraph (4) of regulation (4) allocates responsibility for the amendment, modification, variation or revocation of the plans and strategies specified in Schedule 3. Paragraphs (5) to (7) of regulation 4 make similar provision in relation to functions concerned with the disposal of an authority's housing land.

Where an aspect of a function referred to in paragraph (1), (4) or (5) of regulation 4 is not to be the responsibility of an authority's executive, paragraph (8) of that regulation has the effect that the authority may not arrange for it to be discharged by any of their committees, sub-committees or officers.

Paragraphs (9) to (11) of regulation 4 allocate responsibility for various aspects of functions relating to council tax, precepts and other calculations under the Local Government Finance Act 1992. To the extent that the function relates to the preparation and revision of estimates and other amounts for

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consideration by an authority it is to be the responsibility of an authority's executive. Other aspects of the function, such as the setting of an amount of council tax for a financial year, are to be the responsibility of the authority.

Regulation 5(1) and Schedule 4 specify the circumstances in which certain functions, that would otherwise be the responsibility of an authority's executive, are not to be the responsibility of such an executive. The circumstances are listed in column (2) of Schedule 4, and the functions to which they relate are listed in column (1). An exception is provided in regulation 5(2) for certain determinations that need to be made as a matter of urgency. In those cases, the determination can be made by the authority's executive only with the prior written agreement of a chairman of a relevant overview and scrutiny committee (defined in regulation 5(3)) or, in specified circumstances, of the chairman or vice-chairman of the authority. Regulation 5(4) requires the individual or body by whom the determination is made to submit a report to the authority of the action taken.

The effect of regulation 5(5) is to prevent an authority from arranging for the discharge by a committee, sub-committee or officer of functions which, in accordance with regulation 5(1), are the responsibility of the authority.

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