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STATUTORY INSTRUMENTS

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**2001 No. 1299**

The Local Authorities (Alternative Arrangements) (England) Regulations 2001

**Part I**

**General**

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Local Authorities (Alternative Arrangements) (England) Regulations 2001 and shall come into force on the day after they are made.

(2) These Regulations apply in relation to local authorities in England<sup>(1)</sup>.

**Interpretation**

2. In these Regulations—

“the 2000 Act” means the Local Government Act 2000;

“the 1972 Act” means the Local Government Act 1972<sup>(2)</sup>;

“local authority”, unless otherwise stated, means a local authority which is operating alternative arrangements; and

“overview and scrutiny committee” has the meaning given by regulation 6(1).

**Alternative arrangements**

3. The arrangements set out in these Regulations are specified as alternative arrangements for the purposes of Part II of the 2000 Act<sup>(3)</sup>.

**Functions which are to be the responsibility of the authority itself**

4.—(1) Section 101 (arrangements for the discharge of functions by local authorities) of the 1972 Act shall not apply with respect to the discharge, by a local authority, of any function mentioned in paragraph (2), (3) or (4).

(2) The functions mentioned in this paragraph are;

(a) the approval or adoption of a plan or strategy of a description specified in column (1) of the Schedule to these Regulations by reference to the enactments, in relation to those functions in column (2);

(b) the approval or adoption of a plan or strategy for the control of the local authority’s borrowing or capital expenditure;

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(1) For the application of section 32 of the Local Government Act 2000 to Wales, *see* section 106 of that Act.

(2) 1972 c. 70.

(3) *See*, in particular section 31 (Alternative arrangements in case of certain authorities) and section 27(2) Referendum in case of proposals involving elected mayor).

- (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 mentioned in sub-paragraphs (a) or (b), (whether or not in the form of a draft) of which any part is required to be so submitted; and
  - (d) the authorisation of the making of an application—
    - (i) for the inclusion of a disposal in a disposals programme under subsection (5) of section 135 (programmes for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993(4), or
    - (ii) for consent to that disposal 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(5).
- (3) The function mentioned in this paragraph is the making of 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(6) or of amending, revoking or replacing any such scheme.
- (4) The functions mentioned in this paragraph are the functions of the determination of—
- (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; or
    - (iii) subsection (4) of section 173 (financial loss allowance) of that Act(7);
    - (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; and
  - (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.
- (5) Subject to paragraph (6), section 101 of the 1972 Act shall not apply with respect to the discharge of the function of amending, modifying, varying or revoking any plan or strategy mentioned in paragraph (2)(a) or (b) (whether approved or adopted before or after the coming into force of these Regulations).
- (6) Paragraph (5) does not apply to any amendment, modification, variation or revocation which—
- (a) 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
  - (b) is authorised by a determination made by the local authority—
    - (i) in pursuance of arrangements made for the discharge of functions under section 101 of the 1972 Act; and
    - (ii) at the time when the local authority approves or adopts the plan or strategy, as the case may be.

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(4) 1993 c. 28, to which there are amendments not relevant to these Regulations.

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

(6) 1989 c. 42. Section 18 is amended by section 99(3) to (9) of the Local Government Act 2000.

(7) Section 173(4) was inserted 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).

### Local authority committees and sub-committees

5.—(1) Subject to paragraph (3), where a local authority appoints a committee under section 102(1)(a) of the 1972 Act for the purpose of discharging any function in pursuance of arrangements made under section 101 of the 1972 Act, the number of members of that committee, who are members of the local authority, shall not exceed fifteen.

(2) Subject to paragraph (3), where a committee, appointed under section 102(1)(a) of the 1972 Act, appoints a sub-committee for the purpose of discharging any function in pursuance of arrangements made under section 101 of the 1972 Act, the number of members of that sub-committee, who are members of the local authority, shall not exceed ten.

(3) Paragraphs (1) and (2) shall not apply—

- (a) to a committee or sub-committee of a local authority to which regulation 16A of the Local Government (Committees and Political Groups) Regulations 1990 (area committees and sub-committees)(8) as amended from time to time applies; or
- (b) to a committee or sub-committee of a local authority, which only discharges one or more of those functions mentioned under headings **A**, **B**, **C**, **H** or **I** in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000(9) as amended from time to time.

(4) Any reference in paragraph (3)(b) to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions(10).

### Overview and Scrutiny committees

6.—(1) Alternative arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority, with the functions mentioned in paragraph (2), (referred to in these Regulations as overview and scrutiny committees).

(2) Alternative arrangements by a local authority must ensure their overview and scrutiny committee has power (or that their overview and scrutiny committees have power between them)—

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions of the local authority;
- (b) to make reports or recommendations to—
  - (i) the local authority,
  - (ii) any committee or sub-committee of the local authority, or
  - (iii) any joint committee on which the local authority is represented or any sub-committee of such a committee, with respect to the discharge of any functions of the local authority; and
- (c) to make reports or recommendations to—
  - (i) the local authority,
  - (ii) any committee or sub-committee of the local authority, or
  - (iii) any joint committee on which the local authority is represented or any sub-committee of such a committee,

on matters which affect the authority's area or the inhabitants of that area.

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(8) S.I. 1990/1553. This regulation was inserted by the [Local Government \(Committees and Political Groups\) \(Amendment\) Regulations 1991 \(S.I. 1998 No. 1398\)](#). Sub-paragraphs 16A(1)(b) and (2) were substituted and added by the [Local Government \(Committees and Political Groups\) \(Amendment\) Regulations 1998 \(S.I. 1998 No. 1918\)](#), regulation 4.

(9) S.I. 2000/2853.

(10) See section 111 of the Local Government Act 1972 (Subsidiary powers of local authorities).

(3) The power of an overview and scrutiny committee under paragraph (2)(a) to review or scrutinise a decision made but not yet implemented includes power—

- (a) to recommend that the decision be reconsidered by the person who made it; or
- (b) to arrange for its function under paragraph (2)(a), so far as it relates to the decision, to be exercised by the authority.

(4) Subject to paragraph (5) an overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this regulation.

(5) A local authority may arrange for the function of the conducting of a best value review under section 5 of the Local Government Act 1999 (best value reviews)(**11**) to be discharged by an overview and scrutiny committee.

(6) An overview and scrutiny committee of a local authority—

- (a) may appoint one or more sub-committees; and
- (b) may arrange for the discharge of any of its functions by any such sub-committee.

(7) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it in accordance with paragraph (6)(b).

(8) Alternative arrangements by a local authority must include provision which enables—

- (a) any member of an overview and scrutiny committee of the authority to ensure that any matter which is relevant to the functions of the committee is included in the agenda for, and is discussed at, a meeting of the committee; and
- (b) any member of a sub-committee of an overview and scrutiny committee of the authority to ensure that any matter which is relevant to the functions of the sub-committee is included in the agenda for, and is discussed at, a meeting of the sub-committee.

(9) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee may include persons who are not members of the authority, but, subject to regulations 8 and 16, any such persons are not entitled to vote at any meeting of such a committee or sub-committee on any question which falls to be decided at that meeting.

(10) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated;

- (a) as a committee or sub-committee of a principal council for the purposes of Part VA of the 1972 Act (access to meetings and documents of certain authorities, committees and sub-committees), and
- (b) as a body to which section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies(**12**).

(11) Subsections (2) and (5) of section 102 of the 1972 Act are to apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

(12) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—

- (a) may require members of the local authority, and officers of the authority, to attend before it to answer questions; and
- (b) may invite other persons to attend meetings of the committee.

(13) It is the duty of any member or officer mentioned in paragraph (12)(a) to comply with any requirement so mentioned.

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(11) 1999 c. 27.

(12) 1989 c. 42.

(14) A person is not obliged by paragraph (13) to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.