
EXPLANATORY NOTE

(This note does not form part of the Regulations)

Part II of the Local Government Act 2000 (the 2000 Act) provides for the National Assembly for Wales to specify which local authorities may operate “alternative arrangements” (i.e. arrangements for the discharge of the authority’s functions which do not involve the creation and operation of an executive of the authority) (section 31(1)(b)) and what form those arrangements should take (section 32(1)).

These Regulations permit all county councils and county borough councils in Wales to operate alternative arrangements provided that those arrangements are in the form required by these Regulations.

Regulation 4 specifies the committees which must be established when an authority operates alternative arrangements. They are a Board, a principal scrutiny committee and such other scrutiny committees as the council may decide (subject to a minimum of three and a maximum of eight in addition to the principal scrutiny committee). Authorities have a discretion whether to establish planning, licensing, area and audit committees.

Under alternative arrangements committees and sub-committees are subject to the requirements of Part VA of the Local Government Act 1972 (the 1972 Act) and there is a requirement for compliance with section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) (regulation 5). In addition, authorities must allocate the chairpersonships of committees (so far as is practicable) to reflect the political groups in a local authority (regulation 5(3)).

Committees established for the purposes of alternative arrangements (except for area committees established under regulation 4) are to comprise a maximum of ten members or twenty per cent of the authority’s members (whichever is greater) (regulation 5(2)). In calculating this percentage numbers are to be rounded up where there are not whole numbers.

Planning, licensing or area committees dealing with matters specified in Part A of Schedule 1 (town and country planning and development control) must have a minimum of eight members (regulation 5(4)).

Area committees, where established, must collectively cover the whole of a local authority’s area. They must be at least three in number and each member of an authority shall be entitled to sit on one area committee (regulation 5(5)).

The Board of a local authority may include the chairperson of the authority’s planning committee (where such a committee has been established) and the chairpersons of any area committees of the authority (where such committees have been established).

When a local authority establishes an audit committee it may delegate to that committee provided that such delegation is not prohibited by any other enactment. Audit committees cannot include Board members but may include members who are not members of the authority. Those persons are not entitled to vote. The Chairperson of an audit committee must be from a different political group to that of the Chairperson of the Board (except where there is only one political group) and must be a member of the authority. Audit committees may appoint sub-committees.

Regulation 6 sets out requirements in respect of principal scrutiny committees and other scrutiny committees. A principal scrutiny committee shall not include members of the Board and its chairperson is to come from a different political group to that of the chairperson of the Board (regulation 6(1)). Scrutiny committees (other than a principal scrutiny committee) may comprise up to three Board members but members who are non Board members must form the majority

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of the membership of these committees. Board members cannot chair scrutiny committees (regulation 6(2)).

Those powers to be delegated to scrutiny committees by local authorities are set out in regulation 6(3). Principal scrutiny committees are to be delegated the same powers as other Scrutiny committees but the exercise of those powers is limited to the functions of the Board of an authority (regulation 6(4)).

A local authority operating alternative arrangements must provide a mechanism to enable a principal scrutiny committee and a scrutiny committee to refer decisions or proposed decisions of the Board (which relate to the functions of the principal scrutiny committee or scrutiny committee) to the full Council for consideration (regulation 6(9)).

Both principal scrutiny committees and scrutiny committees may comprise members who are not members of the authority but such members cannot have voting rights (regulation 6(10)) and are not entitled to chair such committees.

Where a local authority's function of conducting best value reviews (section 5 of the Local Government Act 1999) is not the responsibility of the Board those reviews may be carried out by a principal scrutiny committee or any scrutiny committee.

Regulation 6 also sets out requirements in respect of the rights of members of principal scrutiny committees and scrutiny committees to raise matters relevant to the functions of such committees and what those committees can do in terms of attendance of non-committee members at their meetings.

Regulation 7 specifies that there must be delegation by an authority to a Board, subject to certain limitations.

Regulations 8, 9, 10 and 11, by reference to the Schedules to the Regulations, set out the limitations on what functions may be exercised by a Board of a local authority. Schedule 1 lists those functions which may not be exercised by the Board and Schedule 2 lists those functions which may be the responsibility of an authority's Board, if the authority so decides. Regulation 10, by reference to Schedule 3, sets out what actions may not be the sole responsibility of an authority's Board. By regulation 11 those functions listed in Schedule 4, which but for regulation 11 would be the responsibility of a Board, are not to be the Board's responsibility in the circumstances set out in column (2) of that Schedule.

A Board may direct that any decision to be made by a planning, licensing or area committee in relation to town and country planning and development control functions (regulation 12 and Part A of Schedule 1) shall be made by the authority.

Regulation 13 allows a local authority, or a Board of the authority, to make arrangements under section 101(5) of the 1972 Act, subject to the provisions of regulation 19 which require that such arrangements must be with the Board of another local authority or another local authority. The regulation also contains specific provisions relating to the discharge of functions by a joint committee in such circumstances including, at regulation 19(8), the need for there to be compliance, in respect of joint committees, with Part VA of the 1972 Act (access to meetings and documents).

The Board of a local authority may, in addition to discharging functions via the whole Board, discharge its functions through a single member of the Board, a committee of the Board or an officer of the authority (regulation 13(b)).

Regulations 15 and 16 provide for the discharge of a local authority's functions by another local authority or Board in specified circumstances. Where, in accordance with regulations 15 and 16, arrangements are in force for the discharge of any functions of a Board by the Board of another local authority, the functions which are the subject of that arrangement are to be treated as being those of the other authority for the purposes of the 2000 Act (regulation 17).

When a local authority exercises functions under an arrangement under regulation 15 (where functions are those of the Board of another authority) the exercising authority may discharge such functions by a committee, sub-committee or officer (regulation 18).