
WELSH STATUTORY INSTRUMENTS

2001 No. 2291

The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001

Name, commencement, application and interpretation

1.—(1) These Regulations are called the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 and shall come into force on 28th July 2001.

(2) These Regulations apply to local authorities in Wales.

(3) In these Regulations—

“the 1972 Act” (“*Deddf 1972*”) means the Local Government Act 1972(1);

“the 1998 Act” (“*Deddf 1998*”) means the School Standards and Framework Act 1998(2);

“the 1990 Regulations” (“*Rheoliadau 1990*”) means the Local Government (Committees and Political Groups) Regulations 1990 (3).

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

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

(2) The functions of—

(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, 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,

(1) 1972. c.70.

(2) 1998 c. 31.

(3) S.I.1990/1553. Regulation 4 was amended by S.I. 1998/1918.

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 mentioned in paragraph (2), or any condition, limitation, restriction 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 functions 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
- (e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge,

are 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) 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.

(10) In paragraphs (1) and (9), “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation.

(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 (SI. 1991/344).

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

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

(2) Nothing in these Regulations shall prevent a local authority from exercising those functions delegated to an executive of the authority.

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

(4) The function of amending, modifying, varying or revoking any plan, scheme 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 National Assembly or a Minister of the Crown in relation to a plan, scheme or strategy submitted for approval, or to any part so submitted; or
 - (ii) is authorised by a determination made by the authority when making the arrangements or approving or adopting the plan, scheme 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—

- (a) under subsection (5) of section 135 (programmes for disposals) of the Leasehold Reform, Housing and Urban Development Act 1993⁽⁶⁾; or

(6) 1993 c. 28, to which there are amendments not relevant to these Regulations.

(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(7), 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(8) or any of sections 43 to 51 or section 61 of that Act, whether originally or by way of substitute; or

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

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 of the authority.

(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;

(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.

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 (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.

(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 or unwilling to

(7) 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 SI 1997/74.

(8) 1992 c. 14; sections 52I, 52J, 52T and 52U were inserted by the Local Government Act 1999 (c. 27) Schedule 1, paragraph 1.

act, from the chairman of the authority or, in that person's 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 action 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.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(9).

21st June 2001

D. Elis-Thomas
The Presiding Officer of the National Assembly