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WELSH STATUTORY INSTRUMENTS

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**2004 No. 3158 (W.275)**

**LOCAL GOVERNMENT, WALES**

**The Local Authorities (Changing Executive Arrangements  
and Alternative Arrangements) (Wales) Regulations 2004**

*Made* - - - - 30 November 2004

*Coming into force* - - 9 December 2004

The National Assembly for Wales, in exercise of the powers given to it by sections 30(1), 33(5), (7) and (9), 105(2) and 106(1) of the Local Government Act 2000<sup>(1)</sup>, hereby makes the following Regulations:

**Name, commencement, application and interpretation**

1.—(1) The name of these Regulations is the Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 and they come into force on 9 December 2004.

(2) These Regulations apply in relation to Wales and, accordingly, references in these Regulations to a local authority are references to a local authority in Wales<sup>(2)</sup>.

(3) In these Regulations —

“the 2000 Act” (“*Deddf 2000*”) means the Local Government Act 2000;

“alternative arrangements” (“*trefniadau amgen*”) means the arrangements specified in the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001<sup>(3)</sup>; and

“the Assembly” (“*y Cynulliad*”) means the National Assembly for Wales.

**Proposals**

2.—(1) A local authority which is operating executive arrangements (“existing executive arrangements”), by virtue of a resolution under section 29(1) of the 2000 Act (operation of, and publicity for, executive arrangements), whether or not as applied by regulation 9(1), may draw up proposals for the operation of executive arrangements (“different executive arrangements”) which differ from the existing executive arrangements either:

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(1) 2000 c. 22.

(2) See section 48(1) of the Local Government Act 2000 for the definition of “local authority”.

(3) S.I.2001/2284 (W.173), amended by S.I. 2001/3711, 2002/810, 2003/155, 2003/2676 and 2004/3092.

- (a) in a respect which involves replacing the existing form of executive with an executive which takes a different form<sup>(4)</sup>; or
- (b) in a respect which does not fall within sub-paragraph (a).

(2) A local authority which is operating existing executive arrangements may draw up proposals for the operation of alternative arrangements instead<sup>(5)</sup>.

(3) A local authority which is operating alternative arrangements (“existing alternative arrangements”), by virtue of a resolution under section 33(2) of the 2000 Act (operation of alternative arrangements), whether or not as applied by regulation 9(2), may draw up proposals for the operation of alternative arrangements (“different alternative arrangements”) which differ from the existing alternative arrangements in any respect.

(4) A local authority which is operating existing alternative arrangements may draw up proposals for the operation of executive arrangements instead.

### **Drawing up proposals**

**3.—**(1) Before drawing up proposals under regulation 2(1)(a), (2) or (4), a local authority must take reasonable steps to consult local government electors for, and other interested persons in, the local authority’s area.

(2) Proposals drawn up under regulation 2(1)(a), (2) or (4) must include —

- (a) such details of the proposed arrangements as the Assembly may direct;
- (b) a timetable with respect to the implementation of the proposals; and
- (c) details of any transitional arrangements which are necessary for the implementation of the proposals.

(3) In drawing up proposals under regulation 2(1)(a) or (4), a local authority must decide —

- (a) which form the executive is to take; and
- (b) the extent to which the functions specified in regulations under section 13(3)(b) of the 2000 Act (functions which are the responsibility of an executive) are to be the responsibility of the executive<sup>(6)</sup>.

(4) In drawing up proposals under regulation 2(2) or 2(3), a local authority must decide the extent to which its functions are to be delegated to the Board of the authority<sup>(7)</sup>.

(5) In drawing up proposals under regulation 2, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority’s functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

### **Directions**

**4.** A local authority must comply with any directions given by the Assembly for the purposes of these Regulations.

### **Requirement to hold a referendum**

**5.—**(1) Where a local authority draws up proposals under regulation 2 which would, if they had been made under section 25 of the 2000 Act (Proposals), require the holding of a referendum, the

<sup>(4)</sup> Forms of executive are specified in section 11 of the Local Government Act 2000.

<sup>(5)</sup> By virtue of S.I. 2001/2284 (as amended), all county and county borough councils in Wales may operate alternative arrangements.

<sup>(6)</sup> See S.I. 2001/2291 (W.179), amended by S.I. 2002/783, 2003/153, 2003/2676 and 2004/3093.

<sup>(7)</sup> See, in particular, regulations 7 to 11 of S.I. 2001/2284 (as amended).

provisions of section 27(1)(a) of the 2000 Act (Referendum in case of proposals involving elected mayor) are to apply to those proposals.

(2) Where a local authority is required to hold a referendum by virtue of paragraph (1), it must also draw up an outline of proposals (“outline fall-back proposals”) which must consist of a summary of the local authority’s existing executive arrangements or its existing alternative arrangements, as the case may be.

(3) A local authority may not hold such a referendum before the later of the following dates—

- (a) the date of approval in writing by the Assembly of the proposals to which it is to relate; and
- (b) the date which is two months after the date on which a copy of the proposals, statement and outline fall-back proposals are sent to the Assembly in accordance with regulation 6.

### **Information to be sent to the Assembly**

6.—(1) Where proposals are drawn up under regulation 2(1)(a), (2) or (4), the local authority must send to the Assembly —

- (a) a copy of the proposals; and
- (b) a statement which describes —
  - (i) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority’s area;
  - (ii) the outcome of that consultation and the extent to which that outcome is reflected in the proposals; and
  - (iii) the reasons why the authority considers that its proposals would be likely, if implemented, to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.

(2) Where a local authority is required to hold a referendum by virtue of regulation 5, it must also send to the Assembly, together with the documents referred to in paragraph (1), a copy of the outline fall-back proposals drawn up under regulation 5(2).

### **Proposals not requiring a referendum**

7.—(1) Where a local authority —

- (a) draws up proposals under regulation 2(1)(a) or (4) and a referendum is not required for those proposals; or
- (b) draws up proposals under regulation 2(2),

the authority must, subject to paragraph (2), implement the proposals in accordance with the timetable included in the proposals.

(2) A local authority required by paragraph (1) to implement proposals must not do so without the approval in writing of the Assembly.

### **Proposals requiring a referendum**

8.—(1) If the result of a referendum held by virtue of regulation 5 is to reject the proposals that were the subject of the referendum, the local authority —

- (a) must not implement those proposals; and
- (b) where the local authority is operating —
  - (i) existing executive arrangements (as summarised in its outline fall-back proposals), it must continue to operate those existing arrangements unless and until it is authorised

or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements<sup>(8)</sup>;

- (ii) existing alternative arrangements (as summarised in its outline fall-back proposals), it must continue to operate those existing arrangements unless and until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements<sup>(9)</sup>.

(2) If the result of a referendum held by virtue of regulation 5 is to approve the proposals that were the subject of the referendum, the local authority must implement those proposals in accordance with the timetable included in the proposals.

### **Requirements for a resolution**

9.—(1) Subsection (1) of section 29 of the 2000 Act (operation of, and publicity for, executive arrangements) is to apply in relation to operating different executive arrangements as it applies in relation to operating executive arrangements originally or in place of existing alternative arrangements.

(2) Subsection (2) of section 33 of the 2000 Act (operation of alternative arrangements) is to apply in relation to operating different alternative arrangements as it applies in relation to operating alternative arrangements originally or in place of existing executive arrangements.

### **Publicity for arrangements**

10.—(1) Where a local authority has resolved to operate —

- (a) different executive arrangements; or
- (b) different alternative arrangements,

it must, as soon as practicable after passing such a resolution, secure that copies of a document setting out the provisions of those arrangements are available at its principal office for inspection by members of the public at all reasonable hours.

(2) Where a local authority has resolved to —

- (a) operate different executive arrangements which involve replacing an executive with one which takes a different form;
- (b) operate alternative arrangements in place of existing executive arrangements; or
- (c) operate executive arrangements in place of existing alternative arrangements,

it must, as soon as practicable after passing such a resolution, publish in one or more newspapers circulating in its area a notice which complies with the provisions of paragraph (3).

(3) The notice referred to in paragraph (2) must —

- (a) state that the local authority has resolved to operate the arrangements;
- (b) state the date on which the local authority is to begin operating those arrangements;
- (c) describe the main features of those arrangements;
- (d) state that copies of a document setting out the provisions of those arrangements are available at the local authority's principal office for inspection by members of the public at such times as may be specified in the notice; and
- (e) specify the address of the local authority's principal office.

<sup>(8)</sup> See, in particular, sections 30 and 33 to 36 of the Local Government Act 2000.

<sup>(9)</sup> See, in particular, sections 33 to 36 of the Local Government Act 2000.

(4) Where a referendum, required by virtue of regulation 5(1), has rejected the local authority's proposals, the local authority must publish, as soon as practicable after the holding of the referendum, in one or more newspapers circulating in its area a notice which —

- (a) summarises the local authority's proposals which were the subject of the referendum;
- (b) states that a referendum on the local authority's proposals rejected those proposals;
- (c) sets out the local authority's outline fall-back proposals; and
- (d) states that the existing executive arrangements or existing alternative arrangements, as the case may be, (as summarised in the local authority's outline fall-back proposals) will continue to operate.

#### **Pre-commencement consultation**

**11.**—(1) Paragraph (2) applies if —

- (a) consultation is required to take place under a provision of these Regulations; and
- (b) within the period of six months ending on the day in which these Regulations come into force, consultation has taken place which would have satisfied the requirements of that provision to any extent if it had been in force.

(2) Those requirements shall be taken to have been satisfied to that extent.

#### **Revocation**

**12.** The Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002(**10**) are hereby revoked.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**11**)

30 November 2004

*John Marek*  
The Deputy Presiding Officer of the National  
Assembly

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(10) S.I. 2002/2880 (W.276).

(11) 1998 c. 38.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Following the commencement of Part II of the Local Government Act 2000 (“the 2000 Act”) in Wales, Welsh county and county borough councils drew up proposals for the operation of either executive arrangements (under which certain functions of such local authorities are the responsibility of an executive) or the operation of alternative arrangements. In the case of executive arrangements, the local authority’s executive must take one of the forms specified in section 11(2) to (4) of the 2000 Act.

These Regulations revoke the Local Authorities (Operation of Different Executive or Alternative Arrangements) (Wales) Regulations 2002 and enable a local authority in Wales, which is operating executive arrangements, to draw up proposals to change those executive arrangements or replace them with alternative arrangements. These Regulations also enable a local authority which is operating alternative arrangements to draw up proposals to change those alternative arrangements or to replace them with executive arrangements (regulation 2).

Regulation 3 makes provision, in respect of certain proposals, for consultation and for what must be included in the proposals. There is a requirement, in respect of all proposals, for the local authority to consider how the proposals may assist in securing continuous improvement in the way its functions are exercised, having regard to economy, efficiency and effectiveness.

Regulation 4 provides that a local authority must comply with any directions given by the National Assembly for Wales (“the Assembly”) for the purposes of these Regulations.

Regulation 5 sets out when a referendum is required before a local authority can take steps to implement its proposals. The Assembly must first approve those proposals.

Regulation 6 provides for certain information to be sent to the Assembly.

Regulation 7 provides for certain proposals, which do not require a referendum, to be implemented in accordance with the timetable included in the proposals. This is subject to the Assembly having first approved those proposals.

Where a referendum rejects proposals, the local authority must continue to operate its existing arrangements unless and until it is authorised or required to operate other arrangements. Where a referendum approves proposals, the local authority must implement them in accordance with the timetable included in the proposals (regulation 8).

Regulation 9 requires a resolution of the local authority in order for that authority to operate different arrangements.

After making a resolution under section 29(1) or 33(2) of the 2000 Act, as applied by regulation 9, copies of a document setting out the provisions of the proposed arrangements must be available for public inspection at the local authority’s principal office. For certain proposals, and for proposals that have been rejected by a referendum, specified information must be published in one or more newspapers (regulation 10).

Regulation 11 makes provision in respect of consultation undertaken by a local authority, for the purposes of regulation 3(1), prior to the coming into force of these Regulations.