



## 2014 CHAPTER 8

### PART 4

#### DISCHARGE OF FUNCTIONS

##### *Arrangements for discharge of functions*

##### **Arrangements for discharge of functions of council**

7.—(1) A council may arrange for the discharge of any of its functions—

- (a) by a committee, a sub-committee or an officer of the council; or
- (b) by any other council.

(2) Subsection (1) is subject to any express provision contained in this Act or any Act passed after this Act.

(3) A council's functions with respect to—

- (a) making a district rate under the Rates (Northern Ireland) Order 1977;
- (b) making a determination under section 13(1) of the Local Government Finance Act (Northern Ireland) 2011 (affordable borrowing limit) and monitoring an amount determined under that subsection;
- (c) borrowing money; and
- (d) acquiring or disposing of land,

may only be discharged by the council itself.

(4) Where by virtue of this section any functions of a council may be discharged by a committee of the council, the committee may arrange for the discharge of any of those functions by—

- (a) a sub-committee; or

(b) an officer of the council.

(5) Subsection (4) is subject to any contrary direction by the council.

(6) Where by virtue of this section any functions of a council may be discharged by a sub-committee of the council, the sub-committee may arrange for the discharge of any of those functions by an officer of the council.

(7) Subsection (6) is subject to any contrary direction by the council or the committee.

#### **Arrangements by one council for discharge of functions by another council**

**8.**—(1) A council may not under section 7(1)(b) arrange for the discharge of any of its functions by another council if, or to the extent that, that function is also a function of the other council and is the responsibility of the other council's executive.

(2) Arrangements made under section 7(1)(b) by a council ("Council A") with respect to the discharge of any of its functions cease to have effect with respect to that function if, or to the extent that—

- (a) Council A is operating or begins to operate executive arrangements, and that function becomes the responsibility of the executive of Council A; or
- (b) the council with which the arrangements are made ("Council B") is operating or begins to operate executive arrangements, that function is also a function of Council B and that function becomes the responsibility of Council B's executive.

(3) Subsections (1) and (2) do not affect arrangements made by virtue of section 25 (discharge of functions of and by another council).

(4) Subsection (5) applies where arrangements are in force under section 7(1)(b) for the discharge of the functions of a council ("Council A") by another council ("Council B").

(5) Council B may arrange for the discharge of those functions by a committee, sub-committee or officer of Council B.

(6) Subsections (4) to (7) of section 7 apply in relation to those functions as they apply in relation to the functions of Council B.

(7) Subsection (4) is subject to the terms of the arrangements.

(8) Arrangements made under section 7(1)(b) by a council for the discharge of its functions do not affect its responsibility for them.

#### **Arrangements for discharge of functions by councils jointly**

**9.**—(1) Two or more councils may discharge any of their functions jointly and subsections (2) to (6) apply where arrangements are in force for them to do so.

(2) The councils may also arrange for the discharge of those functions by—

- (a) a joint committee of the councils; or
- (b) an officer of one of the councils.

(3) Subsections (4) to (7) of section 7 apply in relation to those functions as they apply in relation to the functions of the individual councils.

(4) Any statutory provision relating to—

- (a) those functions; or
- (b) the councils by which or the areas in respect of which they are to be discharged,

has effect subject to any necessary modification in its application in relation to those functions and the councils by which and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(5) Arrangements made under subsection (2) by two or more councils with respect to the discharge of any of their functions cease to have effect with respect to that function if, or to the extent that, the function becomes the responsibility of an executive of any of the councils.

(6) Subsection (5) does not affect arrangements made by virtue of section 26 (joint exercise of functions).

### **Exercise of functions not prevented by arrangements under this Part**

**10.** Any arrangements made by a council or committee under this Part for the discharge of any functions by a committee, sub-committee, officer or council do not prevent the council or committee by which the arrangements are made from exercising those functions.

### *Appointment of committees etc.*

### **Appointment of committees etc. for the purpose of discharging functions**

**11.—(1)** For the purpose of discharging any functions in pursuance of arrangements made under this Part—

- (a) a council may appoint a committee of the council; or
- (b) two or more councils may appoint a joint committee of those councils; or
- (c) any such committee may appoint one or more sub-committees.

(2) Subject to this Act, the number of members of a committee appointed under subsection (1), their term of office, and the area (if restricted) within which the committee is to exercise its authority must be fixed by the appointing council or councils or, in the case of a sub-committee, by the appointing committee.

(3) A committee appointed under subsection (1), other than a committee for regulating and controlling the finance of the council, may, subject to section 15,

include persons who are not members of the appointing council or councils or, in the case of a sub-committee, the council or councils of which it is a sub-committee.

#### **Appointment of committee to advise on discharge of functions**

**12.—**(1) A council may appoint a committee, and two or more councils may join in appointing a committee, to advise—

- (a) the appointing council or councils; or
- (b) where the appointing council or each of the councils operates executive arrangements, any executive of that or those councils, or a sub-committee of that executive,

on any matter relating to the discharge of their functions.

(2) A committee appointed under subsection (1) may—

- (a) consist of such persons (whether members of the appointing council or councils or not) appointed for such term as may be determined by the appointing council or councils; and
- (b) appoint one or more sub-committees to advise the committee with respect to any such matter.

#### **Appointment of councillors to committees, etc.**

**13.** Schedule 2 (which makes provision relating to the appointment of councillors to committees, etc.) has effect.

#### *Supplementary*

#### **Joint committees: further provisions**

**14.—**(1) The councils which appoint a joint committee must pay its expenses—

- (a) in such proportions as they may agree upon; or
- (b) if they fail to agree, as may be determined by the Department.

(2) The Department, on the application of the councils which appoint a joint committee, may by order make provision for the purpose of—

- (a) constituting the joint committee a body corporate by the name specified in the order;
- (b) fixing the functions of the body corporate so constituted;
- (c) applying to that body any statutory provision, subject to the modifications (if any) specified in the order;

- (d) providing for the winding-up and dissolution of any body corporate so constituted.

(3) A member of a joint committee or a sub-committee of a joint committee who is not a member of a council has the same exemption from personal liability as a member of a council.

### **Disqualification for membership of committees**

**15.—**(1) A person who is disqualified for being elected or being a member of a council is disqualified for being—

- (a) a member of any committee or sub-committee of that council;
- (b) a representative of that council on any joint committee; and
- (c) a member of a sub-committee of a joint committee on which that council is represented.

(2) Section 6 of the Local Government Act (Northern Ireland) 1972 (penalties for acting while disqualified) applies to members of a committee or sub-committee of a council who are not councillors as it applies to councillors.

(3) Subsection (1) applies whether the committee or joint committee is appointed under this Part or otherwise.

### **Declaration required of persons who are not members of council**

**16.—**(1) A person who—

- (a) is a member of a committee appointed under section 11 or 12; but
- (b) is not a member of the council which appointed that committee,

must not act as a member of that committee until the person has made, and served on the clerk of the council, a declaration in the form set out in Schedule 3.

(2) This section applies to a joint committee and a sub-committee appointed under section 11 or 12 as it applies to a committee appointed under section 11 or 12 except that in relation to a joint committee—

- (a) the reference in subsection (1)(b) to the council which appointed that committee is to be taken as a reference to one of the councils which appointed that joint committee; and
- (b) the reference in subsection (1) to the clerk of the council is to be taken as a reference to the clerk of every council which appointed that joint committee.

### **Voting rights of persons who are not members of council**

**17.—**(1) A person who—

- (a) is a member of a committee appointed under section 11 or 12; but

(b) is not a member of the council which appointed that committee, must for all purposes be treated as a non-voting member of that committee.

(2) A person treated by virtue of this section as a non-voting member of any committee, is not entitled to vote at any meeting of the committee on any question which falls to be decided at that meeting.

(3) In this section any reference to voting includes a reference to making use of a casting vote.

(4) This section applies to a joint committee and a sub-committee appointed under section 11 or 12 as it applies to a committee appointed under section 11 or 12 except that in relation to a joint committee the reference in subsection (1) (b) to the council which appointed that committee is to be taken as a reference to one of the councils which appointed that joint committee.

#### **Termination of membership on ceasing to be member of council**

**18.—**(1) Every member of a committee appointed under this Act who at the time of the appointment was a member of the appointing council, or one of the appointing councils, upon ceasing to be a member of that council also ceases to be a member of the committee.

(2) For the purposes of this section a member of a council is not to be deemed to have ceased to be a member of the council by reason of retirement if re-elected a member of the council not later than the day of that retirement.

(3) Subsection (1) is subject to subsection (2).