

DRAFT STATUTORY RULES OF NORTHERN
IRELAND

2016 No.

LOCAL GOVERNMENT

**The Local Government (Standing Orders) Regulations (Northern
Ireland) 2016**

Made

Coming into operation

The Department of the Environment makes the following Regulations, in exercise of the powers conferred by section 38 of the Local Government Act (Northern Ireland) 2014^(a).

In accordance with section 127(1) of that Act, the Department has consulted councils, such associations or bodies representative of councils, such associations or bodies representative of officers of councils and such other persons and bodies as appeared to the Department to be appropriate.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Local Government (Standing Orders) Regulations (Northern Ireland) 2016 and shall come into operation on 15th March 2016.

(2) In these Regulations—

“the 1972 Act” means the Local Government Act (Northern Ireland) 1972^(b);

“the 2014 Act” means the Local Government Act (Northern Ireland) 2014;

“Executive Arrangements Regulations” means the Local Government (Executive Arrangements) Regulations (Northern Ireland) 2015^(c); and

“call-in” means a requisition for the reconsideration of a decision under section 41(1) of the 2014 Act.

Incorporation of provisions in standing orders

2. A council must incorporate the provisions in the Schedule in its standing orders for regulating its proceedings and business.

(a) 2014 c. 8 (N.I.)
(b) 1972 c. 9 (N.I.)
(c) S.R. 2015 No. 44

Modification of standing orders

3. A council must refrain from modifying its standing orders for regulating its proceedings and business, to enable provisions incorporated under regulation 2 in those standing orders to be amended or disapplied unless permitted by those provisions.

Revocation

4. Schedule 3 to the Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014(a) is revoked.

Sealed with the Official Seal of the Department of the Environment on 2016.

A senior officer of the
Department of the Environment

SCHEDULE

Regulation 2

PART 1

Voting

Decisions to be taken by a qualified majority

1. A qualified majority shall be required in relation to a council's decision on—
 - (a) a call-in made in accordance with section 41(1)(b) of the 2014 Act where a practising barrister or solicitor has opined under section 41(2) of that Act that there is a risk that the decision is outside the powers of the council, or is incompatible with EU law or Convention Rights (within the meaning of the Human Rights Act 1998(b)), or is not in compliance with the council's equality scheme in so far as it relates to equality of opportunity (within the meaning of section 75(1) of the Northern Ireland Act 1998(c)); and
 - (b) the suspension of standing orders, other than those whose provisions are specified in accordance with —
 - (i) section 40(1) of the 2014 Act;
 - (ii) section 41(1) and (2) of the 2014 Act;
 - (iii) paragraphs 2(3), 4(2) and 6(3) of Schedule 1 to the 2014 Act; and
 - (iv) this Schedule,which cannot be suspended.

PART 2

Call-in Process

Interpretation

2. In this Part—

(a) S.R. 2014 No. 148
(b) 1998 c. 42
(c) 1998 c. 47

“budget” means the expenditure authorised by a council under section 3 of the Local Government Finance Act (Northern Ireland) 2011^(a);

“clerk” means the clerk of a council appointed under section 41 of the 1972 Act;

“committee” means a committee of the council appointed under section 7 of the 2014 Act;

“delegated authority” means the discharge of a function under authority fixed by a council under section 7 of the 2014 Act;

“decision maker” means the body or person making an executive decision, a decision under delegated authority or a key decision;

“executive” means a cabinet-style executive or a streamlined committee executive as provided for in section 21(2) of the 2014 Act;

“executive decision” means a decision taken by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a council;

“key decision” means a decision under executive arrangements which is likely—

(a) to result in the council incurring expenditure which is, or the making of savings are, significant having regard to the council’s annual budget for the service or function to which the decision relates; or

(b) to be significant in terms of the effects on communities living or working in an area comprising two or more district electoral areas in the local government district of the council;

“member” means a member of the council;

“policy framework” means the policies and procedures agreed by the council in relation to the delivery of a function or functions of the council;

“proper officer” means an officer appointed by the council for the purpose of supporting the executive;

“published” means made available for inspection by members of the council;

“Register of Decisions” means a register of decisions maintained by the council of those decisions agreed by the council;

“section of the inhabitants of the district” means any section of the inhabitants that is clearly identifiable by location, interest or other category;

“special resolution” means a resolution of a council as defined in section 148 of the 1972 Act.

Decisions subject to call-in

3.—(1) The following decisions may be subject to call-in and in such manner as is specified in these standing orders—

(a) a decision of the council;

(b) a decision of the executive;

(c) an executive decision taken under joint arrangements in accordance with section 26 of the 2014 Act;

(d) a key decision taken by an officer of the council;

(e) a decision taken by a committee under delegated authority in accordance with section 7 of the 2014 Act; and

(f) a decision taken by a committee to make a recommendation for ratification by the council.

(2) The following decisions shall not be subject to call-in—

(a) 2011 c. 11 (N.I.)

- (a) a decision on a regulatory or quasi-judicial function which is subject to a separate appeal mechanism;
- (b) a decision which is deemed to be a case of special urgency in accordance with regulation 24 of the Executive Arrangements Regulations;
- (c) a decision where an unreasonable delay could be prejudicial to the council's or the public's interests;
- (d) a decision taken by an officer of the council which is not a key decision;
- (e) a decision by the executive which serves only to note a report from or the actions of an officer; and
- (f) a decision which is required to be taken by a special resolution.

(3) No decision may be subject to call-in more than once for each of the grounds specified in section 41(1) of the 2014 Act.

Call-in procedure

4.—(1) A call-in must be submitted in writing to the clerk by 10am on the fifth working day following—

- (a) in the case of a decision of the council, the date of the council meeting at which the decision was taken;
- (b) in the case of a decision of a committee or a key decision taken by an officer of the council, the date on which the decision to which the call-in relates was published.

(2) If a call-in is received after the relevant period specified in sub-paragraph (1), it must be deemed inadmissible.

(3) A call-in shall—

- (a) specify the reasons why a decision should be reconsidered; and
- (b) subject to sub-paragraph (6), be deemed to be inadmissible if the reasons are not specified.

(4) In the case of a call-in submitted under section 41(1)(b) of the 2014 Act, members must in the reasons specified under sub-paragraph (3)(a) specify—

- (a) the section of the inhabitants of the district that would be affected by the decision; and
- (b) the nature and extent of the disproportionate adverse impact.

(5) Within one working day of receipt of a call-in, the clerk must confirm that—

- (a) it has the support of 15 per cent of the members of council; and
- (b) the reasons for the call-in have been specified.

(6) Where the reasons have not been specified on the requisition, the clerk must notify the members making the requisition that it must be considered inadmissible if reasons are not specified in writing within the specified period.

(7) Within two working days of receipt of an admissible call-in submitted under section 41(1)(b) of the 2014 Act, the clerk must seek the opinion of a practising solicitor or barrister in accordance with section 41(2) of the 2014 Act.

(8) When the legal opinion obtained in accordance with section 41(2) of the 2014 Act is received, the clerk must—

- (a) furnish the opinion to the members; and
- (b) include the decision on the agenda for the next available meeting of the council for reconsideration.

The call-in process: committee arrangements

5.—(1) For the purposes of reconsideration of a decision pursuant to a call-in, the minutes of a committee which record a decision—

- (a) taken under delegated authority; or
- (b) for referral for ratification by the council

must be published within five working days of the conclusion of the meeting. The date on which the minutes were published must be regarded as the relevant date for the purposes of a call-in.

(2) If a call-in is not received within the period specified in paragraph 4(1)—

- (a) a decision to which sub-paragraph (1)(a) applies must be implemented; or
- (b) a decision to which sub-paragraph (1)(b) applies must be tabled for ratification by the council.

(3) The tabling for ratification of a decision to which sub-paragraph (1)(b) applies, or the implementation of a decision to which sub-paragraph (1)(a) applies, must be postponed until the decision has been reconsidered. The decision maker may rescind the decision at any time prior to the decision being reconsidered.

(4) If a call-in is made in accordance with paragraph 4(3) and section 41(1)(a) of the 2014 Act, the council must appoint an ad hoc committee of the council, the membership of which will be—

- (a) the chairpersons of all committees of the council; and
- (b) the deputy chairpersons of all committees of the council

to consider the process adopted by the decision-making committee.

(5) The chairperson and deputy chairperson of the committee which was responsible for the decision which is the subject of the call-in must not have voting rights at a meeting of the committee appointed in accordance with sub-paragraph (4).

(6) The members of the ad hoc committee who are present shall choose a member to preside at the meeting.

(7) The members who submitted the call-in, or a member on their behalf, must be invited to attend the meeting at which the decision subject to the call-in is considered and may, upon the request of the chairperson, address the meeting, but must not have voting rights, unless they are voting members of the ad hoc committee.

(8) A committee appointed in accordance with sub-paragraph (4) may—

- (a) refer the decision back to the decision maker;
- (b) in the case of a decision taken under delegated authority, support the decision; or
- (c) in the case of a decision requiring ratification by the council, refer the decision to the council.

(9) Where a decision has been supported in accordance with sub-paragraph (8), that decision must—

- (a) be approved;
- (b) be inserted in the Register of Decisions; and
- (c) become operative from the date of the meeting at which the committee appointed in accordance with sub-paragraph (4) confirmed support for the decision.

The call-in process: council decisions

6.—(1) If a call-in is not received within the period specified in paragraph 4(1) in respect of a decision, that decision may be implemented after that period expires.

(2) The implementation of a decision must be postponed until the decision has been reconsidered.

(3) The clerk must place a call-in on the agenda for the next meeting of the council.

The call-in process: executive arrangements

7.—(1) A proper officer must, within two working days of the production of a statement in accordance with regulations 25 and 26 of the Executive Arrangements Regulations, submit to the council a notice detailing the decision(s) recorded in the statement.

(2) The notice prepared in accordance with sub-paragraph (1) must specify—

- (a) those decisions that are not subject to call-in;
- (b) the period for receipt of a call-in; and
- (c) the overview and scrutiny committee, as determined by a proper officer, that will consider a call-in in accordance with section 41(1)(a) of the 2014 Act.

(3) If a call-in is not received in respect of a decision, that decision may be implemented after that period expires.

(4) If a call-in is received which specifies that the decision was not taken in accordance with the budget or policy framework agreed by the council, the call-in must be referred to the council for decision.

(5) The implementation of a decision must be postponed until the decision has been reconsidered. The decision maker may rescind the decision at any time prior to the decision being reconsidered.

(6) Subject to sub-paragraph (4) the clerk must place a call-in on the agenda of the overview and scrutiny committee specified in the notice prepared in accordance with sub-paragraph (2).

(7) The overview and scrutiny committee must meet within 5 working days of receipt of the call-in.

(8) More than one call-in may be considered at a meeting of an overview and scrutiny committee.

(9) Subject to sub-paragraph (10), the consideration of a matter under sub-paragraph (5) by an overview and scrutiny committee may be adjourned, provided that—

- (a) the chairperson presiding at the meeting; and
- (b) the chairperson of the executive

agree a date for the resumption of consideration of the call-in request.

(10) A meeting convened in accordance with sub-paragraph (6) may only be adjourned under sub-paragraph (9) in order to—

- (a) allow for additional information to be obtained; or
- (b) permit additional witnesses to attend.

(11) The members who submitted the call-in, or a member on their behalf, must be invited to attend the meeting at which the decision subject to the call-in is considered and may, upon the request of the chairperson, address the meeting, but must not have voting rights, unless they are members of the overview and scrutiny committee.

(12) In response to a call-in made in accordance with section 41(1)(a) of the 2014 Act, an overview and scrutiny committee may—

- (a) support the decision; or
- (b) refer the decision, along with the recommendation of the overview and scrutiny committee, back to the decision maker

(13) Where a decision has been supported in accordance with sub-paragraph (11), that decision must—

- (a) be approved;
- (b) be inserted in the Register of Decisions; and
- (c) become operative from the date of the meeting at which the overview and scrutiny committee confirmed support for the decision.

(14) Where a decision has been referred back to a decision maker in accordance with sub-paragraph (12)(b), the decision maker must—

- (a) consider the recommendation of the overview and scrutiny committee; and
- (b) reconsider the original decision.

PART 3

Positions of Responsibility

Positions of responsibility: time limits

8.—(1) Subject to sub-paragraph (2), in relation to positions of responsibility selected in accordance with paragraphs 2(1) and 2(2) or paragraph 4(1) or paragraphs 6(1) and 6(2) of Schedule 1 to the 2014 Act, the period specified for—

- (a) the nominating officer to select a position of responsibility and the term for which it shall be held; and
- (b) the person nominated to accept the selected position

is 15 minutes.

(2) An extension to the period specified in sub-paragraph (1) may be granted subject to the approval of the council. Such an extension may be requested by—

- (a) the nominating officer;
- (b) the person nominated to hold the selected position; or
- (c) another member.

PART 4

Appointment of Councillors to Committees, etc.

Interpretation

9. In this Part —

“2000 Act” means the Political Parties, Elections and Referendums Act 2000(a);

“member” means councillor;

“nominating officer” means—

- (a) the person registered under the 2000 Act as the party’s nominating officer; or
- (b) a member of the council nominated by that person for the purposes of Schedule 1 to the 2014 Act; and

“party” means a party registered under the 2000 Act in the Northern Ireland register (within the meaning of that Act).

Standing Order - Appointment of more than one committee

10. Where a council appoints more than one committee at the same meeting in accordance with paragraph 5 of Schedule 2 to the 2014 Act, for the purposes of determining the number of places that must be allocated across the parties and independent members of that council, it must agree—

- (a) the number of committees to be appointed; and

(a) 2000 c. 41

- (b) the number of councillors that shall constitute the membership of each committee.

Nomination

11.—(1) The total number of places to which a nominating officer of a party may nominate members who stood in the name of that party when elected must be calculated in accordance with paragraphs 2 to 4 of Schedule 2 to the 2014 Act and any resolution of the council made thereunder.

(2) A nominating officer's function under paragraph 2(1)(b) of Schedule 2 to the 2014 Act must be exercised in such manner as to ensure that—

- (a) all the members of a committee are not nominated by the same nominating officer;
- (b) a nominating officer of a party may nominate members who stood in the name of that party to fill the majority of places on a committee, if the majority of members stood in the name of that party; and
- (c) subject to heads (a) and (b), the number of members which each nominating officer of a party may nominate, in so far as is practicable, bears the same proportion to the number of places on that committee as is borne by the number of members on the council who stood in the name of that party.

(3) Nominations made in accordance with sub-paragraph (2) must take into account any positions of responsibility on a committee held by a member who stood in the name of a party.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 38 of the Local Government Act (Northern Ireland) 2014 (“the 2014 Act”) provides for regulations to require councils to incorporate such provisions as may be prescribed by the Department in standing orders for regulating their proceedings and business. These regulations prescribe those provisions.

Regulation 2 provides that the standing orders specified in the Schedule to the regulations must be incorporated in a council's standing orders.

Regulation 3 provides that a council must refrain from modifying its standing orders to enable the standing orders specified in the Schedule to be amended or disapplied, unless permitted by those provisions.

Regulation 4 revokes Schedule 3 to the Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014.

The Schedule specifies standing orders that must be incorporated in a council's standing orders.

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