

1990 No. 1553

LOCAL GOVERNMENT, ENGLAND AND WALES

The Local Government (Committees and Political Groups) Regulations 1990

<i>Made - - - -</i>	<i>27th July 1990</i>
<i>Laid before Parliament</i>	<i>27th July 1990</i>
<i>Coming into force</i>	<i>1st August 1990</i>

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by sections 9(10), 13(3)(b), 13(4)(g), 13(4)(h), 15(1)(e), 15(2), 17(1)(a), 17(3), 17(5), 190(1) and 191(1) of, and paragraphs 1, 3 and 5 of Schedule 1 to, the Local Government and Housing Act 1989(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:

PART I
GENERAL

Citation and commencement

1. These Regulations may be cited as the Local Government (Committees and Political Groups) Regulations 1990 and shall come into force on 1st August 1990.

Interpretation

2. In these Regulations—

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

“the 1989 Act” means the Local Government and Housing Act 1989;

“authority”, except in Part II and as provided in regulations 6(2) and 18, means a relevant authority as defined in relation to England and Wales in paragraph 4(1) of Schedule 1 to the 1989 Act; and

“financial year” means the period of twelve months ending on 31st March.

PART II
VOTING RIGHTS OF MEMBERS

Interpretation of Part II

3. In this Part references to an authority are references to a relevant authority within the meaning of section 13(9) of the 1989 Act other than a parish or community council.

(a) 1989 c.42.

(b) 1972 c.70.

Prescribed functions of authorities where all members of committees discharging those functions may have voting rights

4.—(1) The following functions are prescribed for the purposes of section 13(4)(g) of the 1989 Act—

- (a) the management of land owned or occupied by the authority, other than houses within the meaning of section 56 of the Housing Act 1985(a) which are provided under Part II of that Act;
- (b) in the case of a local housing authority as defined in section 1 of the Housing Act 1985, its functions under section 21 to 26 of that Act in so far as they relate to not more than 1,500 houses, or one quarter of the total number of houses which are provided by the authority under Part II of that Act, whichever is less;
- (c) in the case of a harbour authority as defined in section 57(1) of the Harbours Act 1964(b), its functions as such;
- (d) any function under section 144 of the 1972 Act(c) or section 33 of the 1989 Act relating to the promotion of tourism;
- (e) any function under section 145 of the 1972 Act relating to the management of a festival;
- (f) in the case of a London borough council or the Common Council of the City of London in its capacity as a local authority, police authority or port health authority, the training of staff for the purposes of discharging any function under the Local Authority Social Services Act 1970(d);
- (g) in the case of a metropolitan district council, any function under regulations made by virtue of section 7 of the Superannuation Act 1972(e); and
- (h) in the case of a county council, any function under the Highways Act 1980(f) or the Local Authority Social Services Act 1970 to the extent that it is discharged by a committee the members of which consist solely of members of that council and of members of any district council within its area.

(2) There is prescribed for the purposes of section 13(4)(g) of the 1989 Act in relation to an authority in Wales which is a local education authority as defined in section 114 of the Education Act 1944(g), any functions with respect to education to the extent that they are discharged jointly by all such local education authorities.

(3) For the purposes of paragraph (1)(a) and (e) “management” does not include the determination of the total amount of money which may be expended in any financial year by the authority in respect of the land or festival, as the case may be; and in so far as the functions referred to in paragraph (1)(b) include the management of houses, they shall be taken to exclude the making of any such determination.

Sub-committees where persons may have voting rights

5.—(1) For the purposes of section 13(3)(b) of the 1989 Act the following cases are prescribed—

- (a) a person appointed to a sub-committee of a committee which is appointed exclusively to discharge any of the functions mentioned in regulation 4;
- (b) a person appointed to a sub-committee of a National Parks Committee;
- (c) a person appointed to a sub-committee prescribed in paragraph (2); and
- (d) without prejudice to sub-paragraph (b), a person appointed to a sub-committee of a committee falling within section 13(4) of the 1989 Act who is a member of the authority which appointed the committee.

(2) For the purposes of section 13(4)(h) of the 1989 Act the following sub-committees are prescribed—

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- (a) 1985 c.68.
 - (b) 1964 c.40.
 - (c) Section 144 was amended by Schedule 2 to the Local Government (Miscellaneous Provisions) Act 1976 (c.57), by section 190 of, and Schedule 34 to, the Local Government, Planning and Land Act 1980 (c.65), and by Schedule 17 to the Local Government Act 1985 (c.51).
 - (d) 1970 c.42.
 - (e) 1972 c.11; see S.I. 1986/24, amended by S.I. 1986/380, 1987/293, 1579 and 2110, 1988/466 and 1990/1285.
 - (f) 1980 c.66.
 - (g) 1944 c.31; there are relevant amendments made by S.I. 1977/293, and section 163 of the Education Reform Act 1988 (c.40).

- (a) a sub-committee appointed by a social services committee under section 4(2) of the Local Authority Social Services Act 1970 and a joint sub-committee appointed under section 4(3) of that Act which is appointed solely to advise that committee or another sub-committee of that committee;
- (b) a sub-committee appointed by an education committee, as defined in paragraph 4(1) of Schedule 1 to the 1989 Act, where either—
 - (i) no non-voting member of the education committee is appointed as a voting member of the sub-committee; or
 - (ii) the sub-committee is appointed solely to advise that committee or another sub-committee of that committee;
- (c) a sub-committee appointed exclusively to discharge any function mentioned in regulation 4(1);
- (d) the sub-committee referred to in section 25(1) of the Plymouth City Council Act 1987 (a) ; and
- (e) without prejudice to regulation 4(1)(a) or sub-paragraph (c) above, in so far as it relates to the management of land under regulation 4(1)(d), the sub-committee established—
 - (i) pursuant to an agreement dated 13th February 1905 between the Mayor, Aldermen and Burgesses of the Borough of Hastings and George Godfrey Gray, Arthur Henry Lucy and William Vandeleur Crake relating to the management of the Hastings and Saint Leonards Museum;
 - (ii) pursuant to an agreement dated 30th December 1960 between the Yorkshire Philosophical Society and the Corporation of the City of York relating to the management of the Yorkshire Museum and Gardens; and
 - (iii) as provided in an agreement dated 21st April 1975 between South Lakeland District Council, Windermere Parish Council and Lakes Parish Council relating to Lake Windermere.

PART III

POLITICAL BALANCE AND POLITICAL ASSISTANTS

Interpretation of Part III

6.—(1) Unless otherwise stated, regulations 7 to 13 and 15 apply for the purposes of sections 9, 15 and 16 of the 1989 Act.

(2) In the application of regulations 7 to 13 and 15 for the purposes of section 9 of the 1989 Act, “authority” means a relevant authority as defined in section 9(11) in relation to England and Wales.

Political groups

7. The members of an authority are to be treated as divided into different political groups when there is at least one political group in existence constituted in accordance with regulation 8.

Constitution of political groups

8.—(1) A political group shall be treated as constituted when there is delivered to the proper officer a notice in writing which—

- (a) is signed by two or more members of the authority who wish to be treated as a political group; and
- (b) complies with the provisions of paragraph (3).

(2) A political group shall cease to be constituted if the number of persons who are to be treated as members of that group is less than two.

(a) 1987 c.iv.

(3) A notice under paragraph (1) shall state—

- (a) that the members of the authority who have signed it wish to be treated as a political group;
- (b) the name of the group; and
- (c) the name of one member of the group who has signed the notice and who is to act as its leader.

(4) A notice under paragraph (1) may specify the name of one other member of the group who has signed the notice and who is authorised to act in the place of the leader when he is unable to act (“the deputy leader”).

(5) The name of the group or the name of the person who is the leader or deputy leader may be changed by a further notice in writing delivered to the proper officer and signed—

- (a) in the case of a change in the name of the group or the deputy leader, by the leader of the group or a majority of the members of the group;
- (b) in the case of a change of the leader of the group, by a majority of the members of the group.

Membership of political groups

9. Subject to regulations 11 and 12, a member of the authority is to be treated as a member of a political group if—

- (a) he has signed a notice in accordance with regulation 8; or
- (b) he has delivered to the proper officer a notice in writing which is signed by him and by the leader or deputy leader of the group or by a majority of the members of the group, stating that he wishes to join the group.

Cessation of membership

10. A person is to be treated as having ceased to be a member of a political group when—

- (a) he has ceased to be a member of the authority;
- (b) he has notified the proper officer in writing that he no longer wishes to be treated as a member of the group;
- (c) there is delivered to the proper officer a notice under regulation 8 or 9(b) signed by the person whereby a new political group is constituted or he joins another political group; or
- (d) there is delivered to the proper officer a notice in writing signed by the majority of the members of the group stating that they no longer wish him to be treated as a member of it.

Restriction on membership

11. No person shall be treated as a member of more than one political group at any given time and, accordingly, if a person changes the political group of which he is a member by a notice under regulation 8 or 9 he shall from the date of delivery of that notice be treated—

- (a) in the case of a notice under regulation 8, as a member only of the new political group which is constituted in accordance with that regulation; and
- (b) in the case of a notice under regulation 9(b), as a member only of the group named in the notice.

Same political group

12. The members of two or more political groups constituted in accordance with regulation 8 shall be treated as members of the same political group for the purposes of applying the provisions in section 9 and the principle in section 15(5)(a) of the 1989 Act where more than half of the members of one of those political groups are described in the papers by which they are nominated for election, as belonging to a political group which is described in substantially the same terms in the nomination papers of more than half of the members of another political group.

Wishes of political groups

13.—(1) The wishes of a political group are to be taken as those expressed to the proper officer—

- (a) orally or in writing by the leader or deputy leader of the group; or
- (b) in a written statement signed by a majority of the members of the group.

(2) In the event that different wishes of a political group are notified in accordance with paragraph (1), the wishes notified in accordance with paragraph (1)(b) shall prevail.

Notifications

14. For the purpose of enabling a political group to express its wishes in accordance with section 16 of the 1989 Act, the proper officer shall notify in writing the leader or, in his absence, the deputy leader of a political group as soon as practicable after—

- (a) the allocation by the authority or committee to that group of a seat on a body to which section 15 of the 1989 Act applies; or
- (b) the vacation of a seat on such a body allocated by the authority or committee to that group.

Appointments where political group fails to express wishes

15. Where a political group has failed to express its wishes in relation to the appointment to such a seat as is mentioned in regulation 14 within the period of three weeks beginning with the date on which notice was given under that regulation, the authority or committee may make such appointment to that seat as they think fit.

Modification of sections 15 and 16 of the 1989 Act

16.—(1) In relation to any such case as is described in paragraph 3(2) of Schedule 1 to the 1989 Act, the provisions of sections 15 and 16 of the 1989 Act shall be modified as mentioned in paragraphs (2) and (3).

(2) Section 15(3) of the 1989 Act shall have effect as if for the words from “to determine” to the end there were substituted the words “to determine the allocation to each of those groups of such of the seats which fall to be filled by appointments made from time to time by that authority or committee as bear to the total of all of those seats the same proportion as is borne by the number of members of that group to the membership of the authority.”.

(3) Section 16 of the 1989 Act shall have effect as if, after subsection (2), there were inserted the following subsection—

“(2A) Where appointments fall to be made to seats on a body to which section 15 applies otherwise than in accordance with a determination under that section, it shall be the duty of the authority or the committee, as the case may be, so to exercise their power to make appointments as to secure that the persons appointed to those seats are not members of any political group.”.

PART IV

REVIEWS AND ALLOCATIONS OF SEATS

Review of allocation of seats to political groups

17. The duty under section 15 to review the representation of different political groups shall be performed at the following times which are prescribed for the purposes of section 15(1)(e)—

- (a) at, or as soon as practicable after, the first meeting of the authority after 31st May in each financial year commencing with the financial year beginning 1st April 1991, where—

- (i) the authority does not hold annual meetings in accordance with paragraph 1 of Schedule 12 to the 1972 Act (a) · (annual meetings of principal councils); and
- (ii) the members of the authority are divided into different political groups at the time of that meeting;
- (b) as soon as practicable after there is delivered to the proper officer a notice under regulation 8, where such delivery is more than one month after the last review carried out in accordance with section 15(1)(b) of the 1989 Act or, as the case may be, paragraph (a) above;
- (c) as soon as practicable after there is delivered to the proper officer a notice under paragraph (b) of regulation 9 which—
 - (i) is accompanied by a further notice signed as mentioned in that paragraph and requesting a review under section 15 of the 1989 Act; and
 - (ii) is received by him more than one month after the last such review;
- (d) as soon as practicable after there is delivered to the proper officer a notice under regulation 9(b) which is accompanied by such a notice as is mentioned in paragraph (c)(i) and each such notice—
 - (i) is signed by a member elected to the authority pursuant to section 89 of the 1972 Act (b) ; and
 - (ii) is received by the proper officer not more than one month after the date of the member's election.

Reviews – political assistants

18. Where a relevant authority as defined in section 9(11) of the 1989 Act in relation to England and Wales makes an appointment to a post for the purposes of section 9 of the 1989 Act the authority shall from time to time review allocations made for the purposes of that section.

Exceptions to requirements for committees to review arrangements for allocations of seats

19. For the purposes of section 15(2) of the 1989 Act the following cases are prescribed as cases where a committee of an authority shall not be under a duty to review the representation of different political groups on bodies to which the section applies to which it has power from time to time to make appointments—

- (a) where the committee has undertaken such a review in relation to that body following the date of the last meeting of the authority of which it is a committee; and for this purpose an extraordinary meeting, within the meaning of paragraph 3 of Part 1 of Schedule 12 to the 1972 Act, of an authority to which that Part applies shall not be treated as a meeting of that authority;
- (b) where the committee may only make the appointment by virtue of arrangements made under section 101 of the 1972 Act and the authority of which it is a committee is not required to undertake a review;
- (c) where the committee was established exclusively to discharge functions of the authority or to advise the authority or another committee of the authority in respect of any part of the area of the authority, and—
 - (i) the authority is a county, district or London borough council; and
 - (ii) the voting members of the committee consist solely of persons who are elected for electoral divisions or wards which are wholly or partly within that part; and
 - (iii) the area of that part does not exceed two-fifths of the total area of the authority; or
 - (iv) the population of that part, as estimated by the authority, does not exceed two-fifths of the total population of the area of the authority as so estimated.

(a) Paragraph 1 of Schedule 12 to the Local Government Act 1972 (c.70) was applied to joint authorities by Schedule 14 to the Local Government Act 1985 (c.51), and section 10(3) of the Local Government Act 1986 (c.10).
 (b) Section 89 was amended by the Representation of the People Act 1983 (c.2), Schedule 8, paragraph 13, the Representation of the People Act 1985 (c.50), section 19(6)(c), and the Local Government Act 1985 (c.51), Schedule 17.

Procedure for alternative arrangements for review

20.—(1) For the purposes of section 17(1) of the 1989 Act alternative arrangements for appointments to a body shall be approved in the manner prescribed in paragraph (2).

(2) Notice of the proposal to adopt such arrangements shall be given to each member of the authority or committee, as the case may be, in accordance with the provisions of paragraph 4(2)(b) and (3) of Part I of Schedule 12 to the 1972 Act as if that notice were a summons to attend a meeting of a principal council within the meaning of section 270 of that Act (a) and as if the authority or committee were such a council.

(3) It shall be sufficient compliance with paragraph (2) if an agenda indicating that the approval of alternative arrangements for appointments is to be considered by the authority or committee is sent to every member of the authority or committee, as the case may be.

(4) Any appointment made by an authority or committee in accordance with alternative arrangements shall not be invalidated by reason only that a member has not received such notice or agenda as is mentioned in paragraph (2) or (3).

PART V

POLITICAL BALANCE FOR SUB-COMMITTEES OTHER THAN ORDINARY SUB-COMMITTEES

Representation of political groups on sub-committees which are not ordinary sub-committees

21. For the purposes of securing the appropriate representation of different political groups on a sub-committee falling within section 17(4) of the 1989 Act, the provisions of sections 15 to 17 of the 1989 Act shall, subject to regulation 22, apply to a body described in paragraph (2)(1)(h) of Schedule 1 to that Act as if the body were a relevant authority for the purposes of those provisions; and Part III of these Regulations and regulation 20 shall apply accordingly.

Arrangements for review by joint committees

22.—(1) Where a joint committee has power to make appointments to a sub-committee falling within section 17(4) of the 1989 Act it shall not be under a duty to review the representation of different political groups on that sub-committee at the times mentioned in section 15(1) of the 1989 Act but shall carry out such a review—

- (a) as soon as practicable after its members are divided into different political groups; and
- (b) as soon as practicable after any change in its membership pursuant to a review under section 15(1) of the 1989 Act.

(2) In paragraph (1) “joint committee” means a body described in paragraph 2(1)(h) of Schedule 1 to the 1989 Act.

27th July 1990

Chris Patten
Secretary of State for the Environment

26th July 1990

David Hunt
Secretary of State for Wales

(a) 1972 c.70; there are relevant amendments made by Schedule 16 and 17 to the Local Government Act 1985 (c.51).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for securing the political balance on certain relevant authorities, committees and bodies and for determining the voting rights of members of certain committees.

Part II of the Regulations specifies the circumstances in which the members of certain committees and sub-committees may have voting rights.

Regulations 7 to 11 specify the circumstances in which members of a relevant authority as defined in relation to England and Wales in section 9(11) of, and paragraph 4(1) of Schedule 1 to, the 1989 Act, or a body which is treated as a relevant authority by virtue of the Regulations are to be treated as divided into different political groups, how those groups are to be constituted, who is to be treated as a member of a political group, and the circumstances in which membership of the group ceases and impose restrictions to prevent a person from being a member of more than one political group at any one time.

Regulation 12 makes provision for treating the members of two or more political groups as members of the same political group.

Regulation 13 makes provision for ascertaining the wishes of a political group.

Regulation 14 imposes a duty on the proper officer to notify the leader or deputy leader of a political group when a seat is allocated to the group or a seat which has been allocated to it is vacated. Provision is also made by virtue of regulation 15 to enable appointments to be made to a seat where a political group has failed to notify its wishes.

Regulation 16 modifies sections 15 and 16 of the 1989 Act in circumstances where some of the members of a relevant authority to which those provisions apply are divided into different political groups and others are not.

Regulation 17 specifies additional times at which reviews of the allocation of seats to members of political groups are to be carried out.

Regulation 18 provides for the review from time to time of allocations made for the purposes of section 9 of the 1989 Act.

Regulation 19 prescribes the cases where certain committees are not to be under a duty to undertake a review of the representation of different political groups as provided in section 15(2) of the 1989 Act.

Regulation 20 sets out the procedure for alternative arrangements to those provided in sections 15 and 16 of the 1989 Act for appointments to a body by a relevant authority or committee of such an authority.

Part V of the Regulations makes special provision for securing political balance on certain sub-committees falling within section 17(4) of the 1989 Act.

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