WELSH STATUTORY INSTRUMENTS

2007 No. 399 (W.45)

LOCAL GOVERNMENT, WALES

The Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007

Made - - - -	*14 February 2007*
Coming into force - -	*16 February 2007*

The National Assembly for Wales makes the following Regulations in exercise of the powers given to it by sections 13 and 105 and 106 of the Local Government Act 2000(**1**).

Title, commencement and application

1.—(1) The title of these Regulations is the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007 and they come into force on 16 February 2007.

(2) These Regulations apply to Wales.

Interpretation

2. In these Regulations —

"the 1972 Act" ("*Deddf 1972*") means the Local Government Act 1972(**2**);

"the 2000 Act"("*Deddf 2000*") means the Local Government Act 2000;

"enactment" ("*deddfiad*") includes an enactment contained in a local Act or comprised in subordinate legislation

"executive" ("*gweithrediaeth*") is to be construed in accordance with section 11 of the 2000 Act.

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

3.—(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) of that schedule are not to be the responsibility of an executive of an authority.

(2) The functions of —

(**1**) 2000 c. 22.
(**2**) 1972 c. 70.

(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; or

(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 in the exercise of a function specified in column (1) of Schedule 1,

(b) any failure to comply with a condition, limitation or 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,

is not to be the responsibility of the executive of the authority.

(4) The function of —

(a) amending, modifying or varying any such approval, consent, licence, permission or registration granted or any condition, limitation, restriction or term as mentioned in paragraph (2) 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 of the Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local authority members), 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 22 of the 1972 Act (chairman's expenses);

(ii) subsection (4) of section 24 of that Act (vice-chairman's expenses);

(iii) subsection (4) of section 173 (financial loss allowance) of that Act(**3**);

(iv) section 175 of that Act (allowances for attending conferences and meetings);

(b) the rates at which payments are to be made under section 174 of that Act (travelling and subsistence allowances);

(c) the amount of any allowance payable pursuant to a scheme under section 18 of the Local Government and Housing Act 1989 or regulations made under section 100 of the 2000 Act, 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

(**3**) 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 (S.I. 1991/344).

(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 of the 1972 Act (arrangements for discharge of functions by local authorities) does 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 2000 Act the function of making arrangements for the discharge of functions by a committee or officer under section 101(5) of the 1972 Act is not to be the responsibility of an executive of the authority.

(9) The function of making appointments under section 102 (appointment of committees) of the 1972 Act is not to be the responsibility of an executive of the authority.

(10) Unless otherwise provided by 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.

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

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

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

Functions which are not to be the sole responsibility of an authority's executive

5.—(1) In connection with the discharge of the function of —

(a) formulating or preparing a plan, scheme or strategy of a description specified in column (1) of Schedule 3 to these Regulations;

(b) formulating a plan, scheme or strategy for the control of the authority's borrowing or capital expenditure; or

(c) formulating or preparing any other plan, scheme or strategy whose adoption or approval is, by virtue of regulation 6(1), a matter for determination by the authority;

the actions designated by paragraph (3) ("the designated actions") must not be the responsibility of an executive of the authority.

(2) Subject as provided in paragraph (1) the functions mentioned in that paragraph must be the responsibility of an executive.

(3) The designated actions are —

(a) the giving of instructions requiring an executive to reconsider any draft plan, scheme or strategy submitted by an executive for the authority's consideration;

(b) the amendment of any draft plan, scheme or strategy submitted by an executive for the authority's consideration;

(c) the approval, for the purpose of its submission to the National Assembly for Wales 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) is 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 for Wales 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; but

(b) is not the responsibility of 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 of the Leasehold Reform, Housing and Urban Development Act 1993 (programmes for disposals)(**4**); or

(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(**5**),

is 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), is not the responsibility of an executive of the authority.

(8) Section 101 of the 1972 Act does 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) subject to the provisions in respect of calculations of council tax base in paragraph 22 of Schedule 2 making a calculation in accordance with any of sections 32 to 37, 43 to 51, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992(**6**), whether originally or by way of substitute; or

(b) issuing a precept under Chapter IV of Part 1 of that Act,

the actions designated by paragraph (11) ("the designated actions") are the responsibility of an executive of the authority.

(10) Subject as provided in paragraph (9), the function mentioned in that paragraph is not the responsibility of an executive.

(11) The designated actions 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;

(**4**) 1993 c. 28, to which there are amendments not relevant to these Regulations.
(**5**) 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 S.I. 1997/74.
(**6**) 1992 c. 14; sections 52I, 52J, 52T and 52U were inserted by the Local Government Act 1999 (c. 27) Schedule 1, paragraph 1.

(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 specified functions by authorities

6.—(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), is not the responsibility of an executive in the circumstances specified in column (2) in relation to that function.

(2) Paragraph (1) does 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 chairperson of a relevant scrutiny committee or, if there is no such person or the chairperson of every relevant scrutiny committee is unable or unwilling to act, from the chairperson of the authority or, in that person's absence, from the vice-chairperson, a statement in writing that the determination needs to be made as a matter of urgency.

(3) In paragraph (2) "relevant scrutiny committee" means a scrutiny committee of the authority 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) must, 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 does 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.

Revocation

7. The following are revoked—

(a) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001(**7**);

(b) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2002(**8**);

(c) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2003(**9**); and

(d) the Local Authorities Executive Arrangements (Functions and Responsibilities) (Amendment) (Wales) Regulations 2004(**10**).

(**7**) SI. 2001 / 2291 (W.179).
(**8**) SI. 2002 / 783 (W.84).
(**9**) S.I 2003 / 153 (W.23).
(**10**) S.I 2004 / 3093 (W.267).