WELSH STATUTORY INSTRUMENTS

2007 No. 397 (W.43)

LOCAL GOVERNMENT, WALES

The Local Authorities (Alternative Arrangements) (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 31(1) and 32(1) of the Local Government Act 2000(**1**)):

Title, commencement and application

1.—(1) The title of these Regulations is the Local Authorities (Alternative Arrangements) (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;

"alternative arrangements" ("*trefniadau amgen*") means arrangements by a local authority with respect to discharge of their functions which are arrangements in accordance with regulation 3;

"area committee" ("*pwyllgor ardal*") means a committee or sub-committee of a local authority established under regulation 5(2)(b);

"audit committee" ("*pwyllgor archwilio*") means a committee of a local authority established under regulation 5(2)(c);

"Board" ("*Bwrdd*") means the committee of a local authority established under regulation 4;

"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;

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

"licensing committee" ("*pwyllgor trwyddedu*") means the committee established under section 6 of the Licensing Act 2003;

"local authority" ("*awdurdod lleol*") means (save where the context otherwise requires) a county council or a county borough council which is operating alternative arrangements;

"planning committee" ("*pwyllgor cynllunio*") means a committee of the authority with delegated power to exercise some or all of those functions in Schedule 1 which is known as the Planning Committee or by such other title as the standing orders of the local authority may provide;

"political group" ("*grŵp gwleidyddol*") means a political group in accordance with regulation 8 of the Local Government (Committees and Political Groups) Regulations 1990(**3**);

"principal scrutiny committee" ("*prif bwyllgor craffu*") means a committee or sub-committee of the authority established under regulation 5(1)(a);

"relevant body" ("*corff perthnasol*") for the purposes of regulation 16, means a local authority or a Board;

"scrutiny committee" ("*pwyllgor craffu*") means a committee or sub-committee of the authority established under regulation 5(1)(b).

Local authorities which may operate alternative arrangements

3.—(1) All local authorities may operate alternative arrangements.

(2) Alternative arrangements are arrangements made in accordance with these Regulations and the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001(**4**).

(3) Arrangements in accordance with paragraph (2) are specified as alternative arrangements for the purposes of Part II of the 2000 Act.

(4) To the extent that any provision of these Regulations is inconsistent with any provision of the Parent Governor Representatives and Church Representatives (Wales) Regulations 2001, the provision in those latter Regulations will prevail.

Establishment of a Board

4.—(1) A local authority operating alternative arrangements must establish a Board.

(2) The Board must not include the chairperson or deputy chairperson of the local authority or the chairperson of any other committee or sub-committee of the authority.

(3) A local authority operating alternative arrangements must delegate its functions to a Board subject to the limitations in regulations 10 to 13.

(4) Nothing in these Regulations prevents a local authority from exercising those functions delegated to a Board in accordance with paragraph (3).

(5) Subject to any arrangements made under regulation 16 the Board may arrange for the discharge of any of its functions —

(i) by a member of the Board;

(ii) by a sub-committee of the Board;

(iii) by an officer of the authority.

(**3**) S.I. 1990/1553.
(**4**) S.I. 2001/3711 (W.307) amended at regulation 2 by the Education Act 2002 (Transitional Provisions and Consequential Amendments) (Wales) Regulations 2005 (S.I 2001/2913 (W 210)), regulation 10.

Establishment of Other committees

5.—(1) A local authority operating alternative arrangements must establish in accordance with regulation 6 —

(a) a principal scrutiny committee; and

(b) such additional scrutiny committees (being not less than three nor more than eight in number) for which the standing orders of the local authority may provide.

(2) A local authority operating alternative arrangements may establish —

(a) a planning committee;

(b) area committees for which the standing orders of the local authority may provide;

(c) an audit committee;

(d) an employment appeals committee;

(e) a maximum of four other committees, for which the standing orders of the local authority may provide, which only exercise functions which are not, in accordance with these Regulations or any other enactment, the responsibility of the Board of a local authority provided that any decision to establish such a committee is notified to the National Assembly for Wales within seven days of the decision.

(3) The committees mentioned in paragraphs (1) and (2) are in addition to any committees which the authority is required by any enactment to establish.

Principal Scrutiny Committees and Scrutiny Committees

6.—(1) A principal scrutiny committee or a scrutiny committee, or any sub-committee of such a committee:

(a) must not include any members of the Board; and

(b) must have a chairperson who is a member of the authority.

(2) A principal scrutiny committee must not have a chairperson who is a member of the same political group as the chairperson of the Board (except where there is only one political group).

(3) Subject to paragraph (4) a local authority must ensure that its principal scrutiny committee and scrutiny committees have power between them to —

(a) review or scrutinise decisions made, or other action taken, in connection with the discharge of any function of the authority;

(b) make reports or recommendations to the authority in connection with the discharge of any function of the authority;

(c) make reports or recommendations to the authority (or any committee or sub-committee of the local authority or a joint committee on which the local authority is represented) on matters which affect the authority's area or the inhabitants of that area;

(d) in the case of a decision which has been made but not implemented, recommend that the decision be reconsidered by the committee, sub-committee or person who made it or arrange for its function under sub-paragraph (a) to be exercised by the authority.

(4) Subject to paragraph (5) a principal scrutiny committee and a scrutiny committee may not discharge any function other than in accordance with these Regulations.

(5) If, or to the extent that, a local authority's function of conducting best value reviews under section 5 of the Local Government Act 1999(**5**) is not the responsibility of the Board of the authority,

(**5**) 1999 c. 27.

the authority may arrange for the principal scrutiny committee or any scrutiny committee to conduct such a review.

(6) A principal scrutiny committee and a scrutiny committee may —

(a) appoint one or more sub-committees; and

(b) arrange for the discharge of any of its functions by any such sub-committee.

(7) A sub-committee of a principal scrutiny committee or a scrutiny committee may not discharge any functions other than those conferred on it under paragraph (6).

(8) Alternative arrangements by a local authority must include provision which enables —

(a) any member of a principal scrutiny committee or scrutiny committee to ensure that any matter which is relevant to the functions of the committee is included in the agenda for, and is discussed at, a meeting of the committee;

(b) any member of a sub-committee of such a committee to ensure that any matter which is relevant to the functions of the sub-committee is included in the agenda for, and is discussed at, a meeting of the sub-committee; and

(c) a principal scrutiny committee or scrutiny committee to refer any matter in connection with a decision or a proposed decision of the Board to the local authority provided that the decision or proposed decision relates to the functions of that committee.

(9) A principal scrutiny committee and a scrutiny committee, or any sub-committee of such a committee, may include persons who are not members of the authority, but any such persons are not entitled to vote at any meeting of such a committee or sub-committee on any question which falls to be decided at that meeting.

(10) A principal scrutiny committee and a scrutiny committee, or a sub-committee of such a committee —

(a) may require members of the Board and officers of the authority, to attend before it to answer questions, and

(b) may invite other persons to attend meetings of the committee or sub-committee.

(11) Any member of the Board or officer of the authority who is authorised to attend to answer questions in accordance with paragraph (10) is under a duty to do so but any such member or officer is not obliged to answer any question which that person would be entitled to refuse to answer in or for the purposes of proceedings in a court in Wales or England.

Audit Committee

7.—(1) To the extent that a local authority's powers in respect of its audit functions under any enactment may be delegated to a committee or sub-committee, a local authority may delegate to an audit committee.

(2) An audit committee established under regulation 5(2)(c):

(a) must not include any members of the Board; and

(b) must not have a chairperson who is a member of the same political group as the Chairperson of the Board (except where there is only one political group);

(c) may appoint one or more sub-committees; and

(d) may arrange for the discharge of any of its functions by any such sub-committee.

(3) A sub-committee of an audit committee may not discharge any functions other than those conferred on it under paragraph (2).

(4) An audit committee or any sub-committee of such a committee, may include persons who are not members of the authority, but any such persons are not entitled to vote at any meeting of such a

committee or sub-committee on any question which falls to be decided at that meeting and are not entitled to be the chairperson of such a committee or sub-committee.

Area Committees

8.—(1) An area committee or sub-committee is a committee or sub-committee which satisfies the following conditions:

(a) the committee or sub-committee is established to discharge in respect of part of the area of the authority such functions (other than functions described in regulation 6(3)) as the local authority may determine;

(b) the members of the committee or sub-committee who are members of the authority are elected for electoral divisions or wards which fall wholly or partly within that part; and

(c) in the case of a committee only, the population of that part, as estimated by the authority, is not less than fifteen percent of the total population of the area of the authority as so estimated.

(2) Where a local authority establishes area committees—

(a) there must be at least three such committees and they must cover the whole of the local authority's area; and

(b) each member of the local authority is entitled to be a member of one area committee.

(3) A relevant body may arrange for the discharge of any functions which are the responsibility of the Board of the local authority by an area committee of that authority.

(4) Where by virtue of this regulation any functions may be discharged by an area committee, then, unless the relevant body directs otherwise, the area committee may arrange for the discharge of any of those functions by a sub-committee of that committee or by an officer of the authority.

(5) Where by virtue of paragraph (4) any functions may be discharged by a sub-committee of an area committee, then, unless the area committee or the relevant body directs otherwise, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority.

(6) Any arrangements made under this regulation by a relevant body for the discharge of any functions by an area committee are not to prevent the relevant body from exercising those functions.

(7) As soon as reasonably practicable after making arrangements under this regulation the Board must secure that copies of a document setting out the provisions of the arrangements are available at the authority's principal office for inspection by members of the public at all reasonable hours.

(8) The Board must, in preparing the document referred to in paragraph (7) above, have regard to any guidance issued by the National Assembly for Wales under section 38 of the 2000 Act.

Requirements for committees and sub-committees

9.—(1) Every committee of a local authority established under these Regulations and every sub-committee of such a committee is to be treated as a committee or sub-committee of a principal council for the purposes of Part VA of the Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees).

(2) Every committee of a local authority established under these Regulations (except an area committee) and every sub-committee of such a committee is to be treated as a body to which section 15 of the Local Government and Housing Act 1989(**6**) (duty to allocate seats to political groups) applies.

(3) Subject to any enactment, every committee of a local authority (other than the Board) and every sub-committee of such a committee (other than a sub-committee of the Board) —

(**6**) 1989 c. 42. Section 18 is amended by section 99(3) to (9) of the Local Government Act 2000.