WELSH STATUTORY INSTRUMENTS

2004 No. 3158 (W.275)

LOCAL GOVERNMENT, WALES

The Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004

Made - - - -	*30 November 2004*
Coming into force - -	*9 December 2004*

The National Assembly for Wales, in exercise of the powers given to it by sections 30(1), 33(5), (7) and (9), 105(2) and 106(1) of the Local Government Act 2000(**1**), hereby makes the following Regulations:

Name, commencement, application and interpretation

1.—(1) The name of these Regulations is the Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (Wales) Regulations 2004 and they come into force on 9 December 2004.

(2) These Regulations apply in relation to Wales and, accordingly, references in these Regulations to a local authority are references to a local authority in Wales(**2**).

(3) In these Regulations —

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

"alternative arrangements" ("*trefniadau amgen*") means the arrangements specified in the Local Authorities (Alternative Arrangements) (Wales) Regulations 2001(**3**); and

"the Assembly" ("*y Cynulliad*") means the National Assembly for Wales.

Proposals

2.—(1) A local authority which is operating executive arrangements ("existing executive arrangements"), by virtue of a resolution under section 29(1) of the 2000 Act (operation of, and publicity for, executive arrangements), whether or not as applied by regulation 9(1), may draw up proposals for the operation of executive arrangements ("different executive arrangements") which differ from the existing executive arrangements either:

(**1**) 2000 c. 22.
(**2**) *See* section 48(1) of the Local Government Act 2000 for the definition of "local authority".
(**3**) S.I.2001/2284 (W.173), amended by S.I. 2001/3711, 2002/810, 2003/155, 2003/2676 and 2004/3092.

(a) in a respect which involves replacing the existing form of executive with an executive which takes a different form(**4**); or

(b) in a respect which does not fall within sub-paragraph (a).

(2) A local authority which is operating existing executive arrangements may draw up proposals for the operation of alternative arrangements instead(**5**).

(3) A local authority which is operating alternative arrangements ("existing alternative arrangements"), by virtue of a resolution under section 33(2) of the 2000 Act (operation of alternative arrangements), whether or not as applied by regulation 9(2), may draw up proposals for the operation of alternative arrangements ("different alternative arrangements") which differ from the existing alternative arrangements in any respect.

(4) A local authority which is operating existing alternative arrangements may draw up proposals for the operation of executive arrangements instead.

Drawing up proposals

3.—(1) Before drawing up proposals under regulation 2(1)(a), (2) or (4), a local authority must take reasonable steps to consult local government electors for, and other interested persons in, the local authority's area.

(2) Proposals drawn up under regulation 2(1)(a), (2) or (4) must include —

(a) such details of the proposed arrangements as the Assembly may direct;

(b) a timetable with respect to the implementation of the proposals; and

(c) details of any transitional arrangements which are necessary for the implementation of the proposals.

(3) In drawing up proposals under regulation 2(1)(a) or (4), a local authority must decide —

(a) which form the executive is to take; and

(b) the extent to which the functions specified in regulations under section 13(3)(b) of the 2000 Act (functions which are the responsibility of an executive) are to be the responsibility of the executive(**6**).

(4) In drawing up proposals under regulation 2(2) or 2(3), a local authority must decide the extent to which its functions are to be delegated to the Board of the authority(**7**).

(5) In drawing up proposals under regulation 2, a local authority must consider the extent to which the proposals, if implemented, are likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.

Directions

4. A local authority must comply with any directions given by the Assembly for the purposes of these Regulations.

Requirement to hold a referendum

5.—(1) Where a local authority draws up proposals under regulation 2 which would, if they had been made under section 25 of the 2000 Act (Proposals), require the holding of a referendum, the

(**4**) Forms of executive are specified in section 11 of the Local Government Act 2000.
(**5**) By virtue of S.I. 2001/2284 (as amended), all county and county borough councils in Wales may operate alternative arrangements.
(**6**) *See* S.I. 2001/2291 (W.179), amended by S.I. 2002/783, 2003/153 , 2003/2676 and 2004/3093.
(**7**) *See,* in particular, regulations 7 to 11 of S.I. 2001/2284 (as amended).

provisions of section 27(1)(a) of the 2000 Act (Referendum in case of proposals involving elected mayor) are to apply to those proposals.

(2) Where a local authority is required to hold a referendum by virtue of paragraph (1), it must also draw up an outline of proposals ("outline fall-back proposals") which must consist of a summary of the local authority's existing executive arrangements or its existing alternative arrangements, as the case may be.

(3) A local authority may not hold such a referendum before the later of the following dates—

(a) the date of approval in writing by the Assembly of the proposals to which it is to relate; and

(b) the date which is two months after the date on which a copy of the proposals, statement and outline fall-back proposals are sent to the Assembly in accordance with regulation 6.

Information to be sent to the Assembly

6.—(1) Where proposals are drawn up under regulation 2(1)(a), (2) or (4), the local authority must send to the Assembly —

(a) a copy of the proposals; and

(b) a statement which describes —

(i) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area;

(ii) the outcome of that consultation and the extent to which that outcome is reflected in the proposals; and

(iii) the reasons why the authority considers that its proposals would be likely, if implemented, to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.

(2) Where a local authority is required to hold a referendum by virtue of regulation 5, it must also send to the Assembly, together with the documents referred to in paragraph (1), a copy of the outline fall-back proposals drawn up under regulation 5(2).

Proposals not requiring a referendum

7.—(1) Where a local authority —

(a) draws up proposals under regulation 2(1)(a) or (4) and a referendum is not required for those proposals; or

(b) draws up proposals under regulation 2(2),

the authority must, subject to paragraph (2), implement the proposals in accordance with the timetable included in the proposals.

(2) A local authority required by paragraph (1) to implement proposals must not do so without the approval in writing of the Assembly.

Proposals requiring a referendum

8.—(1) If the result of a referendum held by virtue of regulation 5 is to reject the proposals that were the subject of the referendum, the local authority —

(a) must not implement those proposals; and

(b) where the local authority is operating —

(i) existing executive arrangements (as summarised in its outline fall-back proposals), it must continue to operate those existing arrangements unless and until it is authorised