WELSH STATUTORY INSTRUMENTS

2002 No. 808 (W.89)

LOCAL GOVERNMENT, WALES

The Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002

Made - - - -	*21st March 2002*
Coming into force - -	*1st April 2002*

The National Assembly for Wales makes the following Order in exercise of the powers conferred upon it by sections 47, 105 and 106 of the Local Government Act 2000(**1**), and of all other powers enabling it in that behalf:

Name, commencement, application and interpretation

1.—(1) This Order is called the Local Authorities (Executive and Alternative Arrangements) (Modification of Enactments and Other Provisions) (Wales) Order 2002 and shall come into force on 1st April 2002.

(2) This Order applies to Wales only.

(3) In this Order—

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

"the 1988 Finance Act" ("*Deddf Cyllid 1988*") means the Local Government Finance Act 1988(**3**); and

"the 1989 Act" ("*Deddf 1989*") means the Local Government and Housing Act 1989(**4**).

Modification of Acts

2. The following enactments, in their application to Wales, are modified in accordance with articles 3 to 41—

(a) the 1972 Act;

(b) the Local Government Act 1974(**5**);

(**1**) 2000 c. 22.
(**2**) 1972 c. 70.
(**3**) 1988 c. 41.
(**4**) 1989 c. 42.
(**5**) 1974 c. 7.

(c) the Local Government (Miscellaneous Provisions) Act 1976(**6**);

(d) the Transport Act 1985(**7**);

(e) the Weights and Measures Act 1985(**8**);

(f) the Local Government Act 1986(**9**);

(g) the Airports Act 1986(**10**);

(h) the Pilotage Act 1987(**11**);

(i) the Local Government Act 1988(**12**);

(j) the 1988 Finance Act;

(k) the 1989 Act;

(l) the Water Industry Act 1991(**13**);

(m) the Local Government Finance Act 1992(**14**);

(n) the Deregulation and Contracting out Act 1994(**15**);

(o) the Employment Rights Act 1996(**16**);

(p) the Defamation Act 1996(**17**);

(q) the Education Act 1996(**18**);

(r) the Justices of the Peace Act 1997(**19**);

(s) the Teaching and Higher Education Act 1998(**20**);

(t) the Powers of the Criminal Courts (Sentencing) Act 2000(**21**);

(u) the Adoption Agencies Regulations 1983(**22**);

(v) the Definition of Independent Visitors (Children) Regulations 1991(**23**)**;**

(w) the Children (Secure Accommodation) Regulations 1991(**24**);

(x) the Council Tax (Administration and Enforcement) Regulations 1992(**25**);

(y) the Education (Special Educational Needs) (Approval of Independent Schools) Regulations 1994(**26**).

(**6**) 1976 c. 57.
(**7**) 1985 c. 67.
(**8**) 1985 c. 72.
(**9**) 1986 c. 10.
(**10**) 1986 c. 31.
(**11**) 1987 c. 21.
(**12**) 1988 c. 9.
(**13**) 1991 c. 56.
(**14**) 1992 c. 14.
(**15**) 1994 c. 40.
(**16**) 1996 c. 18.
(**17**) 1996 c. 31.
(**18**) 1996 c. 56.
(**19**) 1997 c. 25.
(**20**) 1998 c. 30.
(**21**) 2000 c. 6.
(**22**) S.I. 1983/1964.
(**23**) S.I. 1991/892.
(**24**) S.I. 1991/1505.
(**25**) S.I. 1992/613.
(**26**) S.I. 1994/651.

Restriction on promotion of Bills for changing local government areas, etc

3. In section 70 of the 1972 Act(**27**) (restriction on promotion of bills for changing local government areas, etc), at the end there shall be added—

"(3) No local authority or joint authority shall have power to promote a Bill for forming, altering or abolishing executive arrangements or alternative arrangements, or for altering arrangements for electing an elected mayor.".

Qualifications for election and holding office as elected mayor

4. In section 79 of the 1972 Act (qualifications for election and holding office as member of local authority), in subsection (1), after "member of a local authority", there shall be inserted ", or be qualified to be elected and to be an elected mayor,".

Disqualifications for election and holding office as elected mayor

5. In section 80 of the 1972 Act (disqualifications for election and holding office as member of local authority), in subsection (1)—

(a) after "member of a local authority", there shall be inserted ", and be disqualified for being elected or being an elected mayor,"; and

(b) in subsection (a), after "appointments", there shall be inserted "or elections".

Validity of acts done by unqualified persons

6. In section 82 of the 1972 Act(**28**) (validity of acts done by unqualified persons), in subsection (1), after "the Local Government Act 1985", there shall be inserted "or elected as elected mayor or executive leader".

Vacation of office by failure to attend meetings

7. In section 85 of the 1972 Act(**29**) (vacation of office by failure to attend meetings)—

(a) after subsection (2), there shall be inserted—

"(2A) Subject to subsections (2B) and (3), if a member of a local authority which are operating executive arrangements, who is also a member of the executive of that local authority, fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the executive, he shall, unless the failure was due to some reason approved by the local authority before the expiry of that period, cease to be a member of the local authority.

(2B) For the purposes of this section—

(a) the discharge by a member, acting alone, of any function which is the responsibility of the executive; and

(b) in respect of a mayor and cabinet executive or leader and cabinet executive, attendance as a member at a meeting of a committee of the executive,

shall each be deemed to be in attendance at a meeting of the executive.";

(**27**) Section 70 was amended by paragraph 1 of Schedule 14 to the Local Government Act 1985 (c. 51), paragraph 41 of Schedule 12 and Schedule 13 to the Education Reform Act 1988 (c. 40).

(**28**) Section 82(1) was amended by Schedule 14 to the Local Government Act 1985, (c.4) and Schedule 13 to the Education Reform Act 1988. There are other amendments to section 82 which are not relevant to this Order.

(**29**) Subsection (3A) of section 85 was inserted by paragraph 9 of Schedule 5 to the Local Government Act 2000. There are other amendments to section 85 which are not relevant to this Order.

(b) in subsection (3), after "meetings of the local authority", there shall be inserted "or of a failure to attend meetings of the executive"; and

(c) in subsection (3A)—

(i) after "subsection (1)", there shall be inserted "or (2A)"; and

(ii) after "meetings of the authority", there shall be inserted "or, as the case may be, meetings of the executive".

Members of local authorities not to be appointed as officers

8. In section 116 of the 1972 Act(**30**) (members of local authorities not to be appointed as officers) —

(a) after "being appointed", there shall be inserted "or elected"; and

(b) after "or vice-chairman", there shall be inserted "or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive".

General provisions as to interpretation

9. In subsection (1) of section 270 of the 1972 Act(**31**) (general provisions as to interpretation), after "that is to say — " there shall be inserted—

""alternative arrangements" has the same meaning as in Part II of the Local Government Act 2000;".

Consideration of adverse reports

10.—(1) In section 31A of the Local Government Act 1974(**32**) (consideration of adverse reports) —

(a) after subsection (2), there shall be inserted—

"(2A) In the case of a local authority which are operating executive arrangements, consideration of a further report of the Local Commissioner under section 31(2A) above by the executive of that local authority, or any person on behalf of that executive, shall be subject to a corresponding restriction."; and

(b) after subsection (5), there shall be inserted—

"(5A) In the case of a local authority which are operating executive arrangements—

(a) no member of the executive of that authority shall decide; and

(b) no member of the executive or any body acting on behalf of that executive shall vote;

on any question with respect to a report or further report under this Part of the Act in which that person is named and criticised by a Local Commissioner.".

(2) In subsection (1) of section 34 of the Local Government Act 1974 (interpretation of Part III), after the definition of "the Commissions" there shall be inserted—

""executive" and "executive arrangements" have the same meaning as in Part II of the Local Government Act 2000;".

(**30**) Section 116 was amended by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51).
(**31**) Section 270 was amended by paragraph 12 of Schedule 3 to the Local Government Act 2000. There are other amendments to section 270 which are not relevant to this Order.
(**32**) Section 31A was inserted by section 28(1) of the Local Government and Housing Act 1989.

Evidence of resolutions and minutes of proceedings etc

11.—(1) In section 41 of the Local Government (Miscellaneous Provisions) Act 1976 (evidence of resolutions and minutes of proceedings)—

(a) after subsection (2), there shall be inserted—

"(2A) In the case of a local authority which are operating executive arrangements, a document which—

(a) purports to be a copy of a record of any decision made by the executive of that authority, or any person acting on behalf of that executive, where that record is required to be kept or produced by section 22 of the Local Government Act 2000 or any regulations made under that section(**33**); and

(b) bears a certificate purporting to be signed by the proper officer of the authority or by a person authorised in that behalf by him or any other person who, by virtue of regulations made under section 22 of the Local Government Act 2000, is authorised or required to produce such a record, stating that the decision was made on the date specified in the certificate by that executive, or as the case may be, by the person acting on behalf of that executive,

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the decision in question."

(2) In subsection (1) of section 44 of the Local Government (Miscellaneous Provisions) Act 1976 (interpretation etc of Part I), there shall be inserted after the definition of "the Common Council"—

""executive" and "executive arrangements" have the same meaning as in Part II of the Local Government Act 2000;".

Disabilities of directors of public transport companies

12. In section 74 of the Transport Act 1985 (disabilities of directors of public transport companies)—

(a) for subsection (3A)(**34**), there shall be substituted—

"(3A) Subject to the following provisions of this section, where a director of a public transport company is a member of the executive of any such council as is mentioned in subsection (1)(a) or (b) above which are operating executive arrangements under Part II of the Local Government Act 2000, he shall not, in the course of the discharge of any function that is the responsibility of the executive, take any action in the consideration, or the making of any decision with respect to any contract or proposed contract with, or any other matter relating to the activities of, the public transport company or a subsidiary of that company.

(3B) Subsection (3) or (3A) above shall not prohibit a person from taking part in the consideration or discussion of, or from voting on any question with respect to, a local transport plan or bus strategy.";

(b) for subsection (4), there shall be substituted—

"(4A) The National Assembly for Wales may grant a written dispensation from subsection (3) or (3A) above in the case of any individual member, except that no such dispensation may be granted in the case of a member of a council's executive acting alone.";

(c) for subsection (6), there shall be substituted—

(**33**) *See* the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 S.I. 2001/2290 (W.178).

(**34**) Subsection (3A) of section 74 of the Transport Act 1985 was inserted by section 161 of the Transport Act 2000 (c. 38).