STATUTORY RULES OF NORTHERN IRELAND

2015 No. 44

LOCAL GOVERNMENT

The Local Government (Executive Arrangements) Regulations (Northern Ireland) 2015

Made - - - - 9th February 2015

Coming into operation 1st April 2015

The Department of the Environment makes the following Regulations, in exercise of the powers conferred by sections 22(3), (5) and (6), 23(5), 25(1) to (4), 26, 30(1) and 35 of the Local Government Act (Northern Ireland) 2014 [F1]:

In accordance with section 127(1) of that Act, the Department has consulted councils, such associations or bodies representative of councils, such associations or bodies representative of officers of councils and such other persons or bodies as appeared to the Department to be appropriate.

F1 2014 c. 8 (N.I.)

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Local Government (Executive Arrangements) Regulations (Northern Ireland) 2015 and shall come into operation on 1 April 2015.

Interpretation

2. In these Regulations—

"the 1972 Act" means the Local Government Act (Northern Ireland) 1972 [F2];

"the 2011 Act" means the Local Government Finance Act (Northern Ireland) 2011 [F3];

"the 2014 Act" means the Local Government Act (Northern Ireland) 2014;

"the Planning Act" means the Planning Act (Northern Ireland) 2011 [F4];

"background papers" in relation to a report or part of a report, means those documents other than published works, that—

(a) relate to the subject matter of the report or, as the case may be, the part of the report; and

(b) in the opinion of the proper officer—

(i) disclose any facts or matters on which the report or an important part of the report is based; and

(ii) were relied on to a material extent in preparing the report;

"confidential information" means—

(a) information provided to the council by a government department on terms (however expressed) which forbid the disclosure of the information to the public; or

(b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court,

and in either case, a reference to the obligation of confidence is to be construed accordingly;

"copy" in relation to any document includes a copy made from a copy;

"council" means a district council which is operating executive arrangements in accordance with Part 6 of the 2014 Act (executive arrangements) ;

"decision maker" means the decision-making body by which an executive decision is made;

"decision-making body" means—

(a) the executive of a council; or

(b) a joint committee, where all the members of the joint committee are members of a council executive, which is authorised to discharge the function to which the executive decision relates in accordance with these Regulations;

"document" means any report or background papers, other than that only in a draft form, taken into consideration in relation to an executive decision;

"executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a council;

"information" includes an expression of opinion, any recommendation and any decision made;

"key decision" has the meaning given in regulation 21 (key decisions);

"newspaper" has the meaning specified by section 52 of the 2014 Act (interpretation and application of this Part);

"nominating officer" has the same meaning as in paragraph 16(1) of Schedule 1 to the 2014 Act (interpretation);

[[F5]"open to the public" includes access through remote means including (but not limited to) video conferencing, live webcast and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend in person;**]**

"party" has the same meaning as in paragraph 16(1) of Schedule 1 to the 2014 Act (interpretation);

"planning decision" means—

(a) any decision on an application under the Planning Act for any agreement, approval, consent or permission; or

(b) any enforcement decision relating to any development within the meaning of the Planning Act;

"private meeting" means a meeting, or part of a meeting, of the decision-making body during which the public are excluded in accordance with regulation 20(2) (procedures prior to private meetings);

"proper officer" means an officer appointed by the council for the purpose of supporting the executive;

"public meeting" means a meeting of the decision-making body which is open to the public in accordance with section 42 of the 2014 Act (admission to meetings of councils);

"relevant body" means, in relation to any council whose functions are the subject of the arrangements for the joint exercise of functions and where the function is the responsibility of the executive of that council—

(a) where the council has a cabinet-style executive, the cabinet-style executive; or

(b) where the council has a streamlined committee executive, the relevant streamlined committee;

"relevant council" means the council whose executive is responsible for the discharge of the function to which the executive decision relates;

"relevant executive" means an executive of a council under Part 6 of the 2014 Act (executive arrangements);

"relevant overview and scrutiny committee" means an overview and scrutiny committee of the relevant council which has terms of reference including the power to review or scrutinise decisions made, or other actions taken, in connection with the discharge of the function to which the decision relates; and

"report" in relation to an executive decision does not include a report in draft form;

"right of recourse to a review" does not include any right to make a complaint to the Northern Ireland Commissioner for Complaints pursuant to the Commissioner for Complaints (Northern Ireland) Order 1996 [F6].

F2 1972 c. 9 (N.I.)
F3 2011 c.10 (N.I.)
F4 2011 c.25 (N.I.)
F5 Words in reg. 2 inserted (1.5.2020) by The Local Government (Coronavirus) (Flexibility of District Council Meetings) Regulations (Northern Ireland) 2020 (S.R. 2020/74), regs. 1(1), **12**
F6 S.I. 1996/1297 (N.I. 7)

PART 2

Functions and responsibilities

Functions not to be the responsibility of a council's executive

3.—(1) The functions of a council specified in column (1) of Schedule 1 (functions not to be the responsibility of a council's executive) by reference to the enactments specified in relation to those functions in column (2) are not to be the responsibility of an executive of the council.

(2) The functions of—

(a) imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted in the exercise of a function specified in column (1) of Schedule 1; and

(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 council.

(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 as mentioned in paragraph (2)(a);

(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 council,

is not to be the responsibility of an executive of the council.

(4) The function of—

(a) amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned in paragraph (2), or any condition, limitation or term 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 council.

(5) The function of making any scheme authorised or required by regulations under section 31 of the 2011 Act (allowances, etc. for councillors) , or of amending, revoking or replacing any such scheme, is not to be the responsibility of an executive of the council.

(6) The function of determining—

(a) the amount of any allowance payable under section 32 of the 2011 Act (allowances for chairperson and vice-chairperson);

(b) the rates at which payments are to be made under regulation 7 of the Local Government (Payments to Councillors) Regulations (Northern Ireland) 2012 [F7] (travelling and subsistence allowances);

(c) the amount of any allowance payable pursuant to a scheme under section 31 of the 2011 Act (allowances, etc. for councillors), 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 council; and

(e) where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge,

is not to be the responsibility of an executive of the council.

(7) Section 7 of the 2014 Act (arrangements for discharge of functions of councils) shall not apply with respect to the discharge of any functions mentioned in paragraphs (5) or (6)(a) to (c).

(8) Subject to any provision of regulations under section 26 of the 2014 Act (joint exercise of functions), the function of—

(a) making arrangements for the discharge of functions by a joint committee or officer under section 9 of the 2014 Act (arrangements for discharge of functions by councils jointly); and

(b) making appointments under section 11 of the 2014 Act (appointment of committees, etc for the purpose of discharging functions),

is not to be the responsibility of an executive of the council.

(9) Unless otherwise provided for by any other provision of these Regulations, a function of a council which, by virtue of any enactment passed or made before the making of these Regulations, may be discharged only by a council, and is not to be the responsibility of an executive of the council.

F7 S.R. 2012 No. 85

Functions which may be the responsibility of a council's executive

4. The functions specified in Schedule 2 (functions which may be the responsibility of a council's executive) may be the responsibility of an executive of a council.

Function not to be the sole responsibility of a council's executive

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

(a) of formulating or preparing a plan or strategy of a description specified in column (1) of Schedule 3 (functions not to be the sole responsibility of a council's executive);

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

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

the actions designated by paragraph (3) ("the paragraph (3) actions"), shall not be the responsibility of an executive of the council.

(2) Except to the extent of the paragraph (3) actions, such function mentioned in paragraph (1) shall be the responsibility of such an executive.

(3) The actions designated by this paragraph are—

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

(b) the amendment of any draft plan or strategy submitted by the executive for the council's consideration;

(c) the approval, for the purpose of its submission to a Northern Ireland department for its approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; and

(d) the adoption (with or without modification) of the plan or strategy.

(4) The function of amending, modifying, varying or revoking any plan or strategy of a description referred to in paragraph (1), (whether approved or adopted, before or after the coming into operation of these Regulations)—

(a) shall be the responsibility of the executive to the extent that the making of the amendment, modification, variation or revocation—

(i) is required for giving effect to requirements of a Northern Ireland department in relation to a plan or strategy submitted for its approval, or to any part so submitted; or

(ii) is authorised by a determination made by the council when approving or adopting the plan or strategy, as the case may be; and

(b) shall not be the responsibility of such an executive to any other extent.

(5) Section 7 of the 2014 Act (arrangements for discharge of functions of council) shall 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 council; and

(b) of the functions specified in paragraph (4) to the extent that they are not the responsibility of an executive of the council.

(6) Subject to paragraph (7) in connection with the discharge of the function of—