



# Local Government Act 2000

## 2000 CHAPTER 22

### PART II

#### ARRANGEMENTS WITH RESPECT TO EXECUTIVES ETC.

##### Modifications etc. (not altering text)

- C1** Pt. II (ss. 10–48) restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(a\)](#)
- C2** Pt. II extended (1.9.2003 for E., 1.9.2003 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 183\(4\)\(b\)](#), 216(4) (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2003/1667](#), art. 4; [S.I. 2003/1718](#), art. 5, Sch. Pt. II
- C3** Pt. II modified (21.6.2004) by [Isles of Scilly \(Functions\) \(Review and Scrutiny of Health Services\) Order 2004 \(S.I. 2004/1412\)](#), arts. 1, 2

#### *Executive arrangements*

### 10 Executive arrangements.

- (1) In this Part “executive arrangements” means arrangements by a local authority—
  - (a) for and in connection with the creation and operation of an executive of the authority, and
  - (b) under which certain functions of the authority are the responsibility of the executive.
- (2) Executive arrangements by a local authority must conform with any provisions made by or under this Part which relate to such arrangements.

##### Commencement Information

- II** S. 10 wholly in force at 28.7.2001; s. 10 not in force at Royal Assent see s. 108; s. 10 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\)](#), [2\(a\)](#); s. 10 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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*Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### *Local authority executives*

#### **11 Local authority executives.**

(1) The executive of a local authority must take one of the forms specified in subsections (2) to (5).

(2) It may consist of—

- (a) an elected mayor of the authority, and
- (b) two or more councillors of the authority appointed to the executive by the elected mayor.

Such an executive is referred to in this Part as a mayor and cabinet executive.

(3) It may consist of—

- (a) a councillor of the authority (referred to in this Part as the executive leader) elected as leader of the executive by the authority, and
- (b) two or more councillors of the authority appointed to the executive by one of the following—
  - (i) the executive leader, or
  - (ii) the authority.

Such an executive is referred to in this Part as a leader and cabinet executive.

(4) It may consist of—

- (a) an elected mayor of the authority, and
- (b) an officer of the authority (referred to in this Part as the council manager) appointed to the executive by the authority.

Such an executive is referred to in this Part as a mayor and council manager executive.

(5) It may take any such form as may be prescribed in regulations made by the Secretary of State.

(6) Regulations under subsection (5) may, in particular, provide for—

- (a) a form of executive some or all of the members of which are elected by the local government electors for the authority's area to a specified post in the executive associated with the discharge of particular functions,
- (b) a form of executive some or all of the members of which are elected by those electors but not to any such post,
- (c) the system of voting that will be used for elections under paragraph (a) or (b).

(7) A local authority executive may not include the chairman or vice-chairman of the authority.

(8) The number of members of a mayor and cabinet executive or a leader and cabinet executive may not exceed 10.

(9) The Secretary of State may by regulations amend subsection (8) so as to provide for a different maximum number of members of an executive to which that subsection applies, but the power under this subsection may not be exercised so as to provide for a maximum number which exceeds 10.

(10) Section 101 of the <sup>MI</sup>Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader

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under subsection (3)(a) or appointing councillors or an officer to the executive under subsection (3)(b)(ii) or (4)(b).

#### Commencement Information

**I2** S. 11 wholly in force at 28.7.2001; s. 11 not in force at Royal Assent see s. 108; s. 11 in force at 7.8.2000 in so far as it confers power to make an order or regulations, gives directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 11 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 11(5)(6)(9) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 11 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M1** 1972 c. 70.

## 12 Additional forms of executive.

- (1) In deciding whether to make regulations under section 11(5) prescribing a particular form of executive, or which provision to make under section 17 in relation to that form of executive, the Secretary of State must have regard to—
  - (a) any proposals made to him under subsection (2),
  - (b) the extent to which he considers that the operation by a local authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way,
  - (c) the extent to which that form of executive differs from the forms of executive for the time being permitted by or under section 11,
  - (d) the number and description of authorities for which he considers that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive to consider.
- (2) For the purposes of subsection (1), a local authority may propose to the Secretary of State a form of executive in relation to which the authority consider that the conditions mentioned in subsection (3) are satisfied.
- (3) Those conditions are—
  - (a) that the operation by the authority of executive arrangements involving that form of executive would be an improvement on the arrangements which the authority have in place for the discharge of their functions at the time that the proposal is made to the Secretary of State,
  - (b) that the operation by the authority of executive arrangements involving that form of executive would be likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way, and
  - (c) that that form of executive, if prescribed in regulations made under section 11(5), would be an appropriate form of executive for all local authorities, or for any particular description of local authority, to consider.
- (4) A proposal under subsection (2)—
  - (a) must describe the form of executive to which it relates,
  - (b) must describe the provision which the authority consider should be made under section 17 in relation to that form of executive, and

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- (c) must explain why the authority consider that the conditions mentioned in subsection (3) are satisfied in relation to that form of executive.

#### **Commencement Information**

- I3** S. 12 wholly in force at 28.7.2001; s. 12 not in force at Royal Assent see s. 108; s. 12 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 12(1) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 12 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Executive functions*

## **13 Functions which are the responsibility of an executive.**

- (1) This section has effect for the purposes of determining the functions of a local authority which are the responsibility of an executive of the authority under executive arrangements.
- (2) Subject to any provision made by this Act or by any enactment which is passed or made after the day on which this Act is passed, any function of a local authority which is not specified in regulations under subsection (3) is to be the responsibility of an executive of the authority under executive arrangements.
- (3) The Secretary of State may by regulations make provision for any function of a local authority specified in the regulations—
  - (a) to be a function which is not to be the responsibility of an executive of the authority under executive arrangements,
  - (b) to be a function which may be the responsibility of such an executive under such arrangements, or
  - (c) to be a function which—
    - (i) to the extent provided by the regulations is to be the responsibility of such an executive under such arrangements, and
    - (ii) to the extent provided by the regulations is not to be the responsibility of such an executive under such arrangements.
- (4) Executive arrangements must make provision for any function of a local authority falling within subsection (3)(b)—
  - (a) to be a function which is to be the responsibility of an executive of the authority,
  - (b) to be a function which is not to be the responsibility of such an executive, or
  - (c) to be a function which—
    - (i) to the extent provided by the arrangements is to be the responsibility of such an executive, and
    - (ii) to the extent provided by the arrangements is not to be the responsibility of such an executive.
- (5) The power under subsection (3)(c) or (4)(c) includes power in relation to any function of a local authority—
  - (a) to designate any action in connection with the discharge of that function which is to be the responsibility of an executive of a local authority, and

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- (b) to designate any action in connection with the discharge of that function which is not to be the responsibility of such an executive.
- (6) The Secretary of State may by regulations specify cases or circumstances in which any function of a local authority which, by virtue of the preceding provisions of this section, would otherwise be the responsibility of an executive of the authority to any extent is not to be the responsibility of such an executive to that or any particular extent.
- (7) A function of a local authority may, by virtue of this section, be the responsibility of an executive of the authority to any extent notwithstanding that section 101 of the <sup>M2</sup>Local Government Act 1972, or any provision of that section, does not apply to that function.
- (8) Any reference in the following provisions of this Part to any functions which are, or are not, the responsibility of an executive of a local authority under executive arrangements is a reference to the functions of the authority to the extent to which they are or (as the case may be) are not, by virtue of this section, the responsibility of the executive under such arrangements.
- (9) Any function which is the responsibility of an executive of a local authority under executive arrangements—
- (a) is to be regarded as exercisable by the executive on behalf of the authority, and
  - (b) may be discharged only in accordance with any provisions made by or under this Part which apply to the discharge of any such function by that form of executive.
- (10) Accordingly any function which is the responsibility of an executive of a local authority under executive arrangements—
- (a) may not be discharged by the authority,
  - (b) is not to be a function to which section 101(1) of the <sup>M3</sup>Local Government Act 1972 applies, and
  - (c) may be the subject of arrangements made under section 101(5) of that Act only if permitted by any provision made under section 20.
- (11) Subject to any provision made under subsection (12), any function which, under executive arrangements, is not the responsibility of an executive of a local authority is to be discharged in any way which would be permitted or required apart from the provisions made by or under this Part.
- (12) The Secretary of State may by regulations make provision with respect to the discharge of any function which, under executive arrangements, is not the responsibility of an executive of a local authority (including provision disapplying section 101 of the <sup>M4</sup>Local Government Act 1972 or any provision of that section).
- (13) Any reference in this section to a function specified in regulations includes a reference to a function of a description specified in regulations.
- (14) In this section—
- “action” in relation to any function includes any action (of whatever nature and whether or not separately identified by any enactment) involving—
    - (a) the taking of any step in the course of, or otherwise for the purposes of or in connection with, the discharge of the function,
    - (b) the doing of anything incidental or conducive to the discharge of the function, or

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- (c) the doing of anything expedient in connection with the discharge of the function or any action falling within paragraph (a) or (b),  
“function” means a function of any nature, whether conferred or otherwise arising before, on or after the passing of this Act.

#### **Commencement Information**

**I4** S. 13 wholly in force at 28.7.2001; s. 13 not in force at Royal assent see s. 108; s. 13 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 13 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 13(3)(5)(6)(12)-(14) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 13 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### **Marginal Citations**

**M2** 1972 c. 70.  
**M3** 1972 c. 70.  
**M4** 1972 c. 70.

### *Provisions with respect to executive arrangements*

#### **14 Discharge of functions: mayor and cabinet executive.**

- (1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of a mayor and cabinet executive are to be discharged in accordance with this section.
- (2) The elected mayor—
  - (a) may discharge any of those functions, or
  - (b) may arrange for the discharge of any of those functions—
    - (i) by the executive,
    - (ii) by another member of the executive,
    - (iii) by a committee of the executive, or
    - (iv) by an officer of the authority.
- (3) Where by virtue of this section any functions may be discharged by a local authority executive, then, unless the elected mayor otherwise directs, the executive may arrange for the discharge of any of those functions—
  - (a) by a committee of the executive, or
  - (b) by an officer of the authority.
- (4) Where by virtue of this section any functions may be discharged by a member of a local authority executive, then, unless the elected mayor otherwise directs, that member may arrange for the discharge of any of those functions by an officer of the authority.
- (5) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, then, unless the elected mayor otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.

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- (6) Any arrangements made by virtue of this section by an elected mayor, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the elected mayor, executive, member or committee by whom the arrangements are made from exercising those functions.

**Modifications etc. (not altering text)**

**C4** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I5** S. 14 wholly in force at 28.7.2001; s. 14 not in force at Royal Assent see s. 108; s. 14 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 14 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

**15 Discharge of functions: leader and cabinet executive.**

- (1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of a leader and cabinet executive are to be discharged in accordance with this section.
- (2) The executive arrangements may make provision with respect to the allocation of any functions which are the responsibility of the executive among the following persons—
- (a) the executive,
  - (b) any members of the executive,
  - (c) any committees of the executive, and
  - (d) any officers of the authority.
- (3) If the executive arrangements make such provision as is mentioned in subsection (2), any person to whom a function is allocated in accordance with that provision may discharge the function.
- (4) If or to the extent that the functions which are the responsibility of the executive are not allocated in accordance with such provision as is mentioned in subsection (2), the executive leader—
- (a) may discharge any of those functions, or
  - (b) may arrange for the discharge of any of those functions—
    - (i) by the executive,
    - (ii) by another member of the executive,
    - (iii) by a committee of the executive, or
    - (iv) by an officer of the authority.
- (5) Where by virtue of this section any functions may be discharged by a local authority executive, the executive may arrange for the discharge of any of those functions—
- (a) by a committee of the executive, or
  - (b) by an officer of the authority.
- (6) Where by virtue of this section any functions may be discharged by a member of a local authority executive, that member may arrange for the discharge of any of those functions by an officer of the authority.

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- (7) Where by virtue of this section any functions may be discharged by a committee of a local authority executive, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (8) Where the executive leader makes or has made any arrangements under subsection (4) (b)(i), (ii) or (iii), he may direct that subsection (5), (6) or (7) (as the case may be) is not to apply to any of the functions which are the subject of those arrangements or is not to apply to any of those functions in such cases or circumstances as he may direct.
- (9) Any arrangements made by virtue of this section by an executive leader, executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent the executive leader, executive, member or committee by whom the arrangements are made from exercising those functions.
- (10) The reference in subsection (2)(b) to the members of the executive includes a reference to the executive leader, and subsection (6) in its application for the purposes of subsection (2)(b) is to be construed accordingly.

**Modifications etc. (not altering text)**

- C5** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)  
**C6** S. 15(8) extended (16.11.2000 with application to local authorities in England only) by [S.I. 2000/2851](#), [regs. 1\(2\), 4\(2\)](#)

**Commencement Information**

- I6** S. 15 wholly in force at 28.7.2001; s. 15 not in force at Royal Assent see s. 108; s. 15 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 15 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

**16 Discharge of functions: mayor and council manager executive.**

- (1) Subject to any provision made under section 18, 19 or 20, the functions which, under executive arrangements, are the responsibility of a mayor and council manager executive are to be discharged in accordance with this section.
- (2) The council manager—
  - (a) may discharge any of those functions, or
  - (b) may arrange for the discharge of any of those functions—
    - (i) by the executive, or
    - (ii) by an officer of the authority.
- (3) In deciding—
  - (a) whether or how to discharge any functions, or
  - (b) whether to arrange for any functions to be discharged by the executive or an officer of the authority,
 the council manager must have regard to any advice given by the elected mayor.
- (4) Where by virtue of this section any functions may be discharged by the executive of a local authority, the executive may arrange for the discharge of any of those functions by an officer of the authority.



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- (5) Any arrangements made by virtue of this section by a council manager or executive for the discharge of any functions by an executive or officer are not to prevent the council manager or executive by whom the arrangements are made from exercising those functions.

**Modifications etc. (not altering text)**

**C7** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I7** S. 16 wholly in force at 28.7.2001; s. 16 not in force at Royal Assent see s. 108; s. 16 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 16 in force at 28.7.2001 in so far as not already in force see. 108(4)-(6)

**17 Discharge of functions: s. 11(5) executive.**

- (1) The Secretary of State may by regulations make provision with respect to the ways in which any functions which, under executive arrangements, are the responsibility of an executive which takes a form prescribed in regulations under section 11(5) are to be discharged.
- (2) The provision which may be made by regulations under this section includes provision which applies or reproduces (with or without modifications) any provisions of section 14, 15 or 16.
- (3) Nothing in subsection (2) affects the generality of the power under subsection (1).
- (4) Any provision made by regulations under this section is subject to any provision made under section 18, 19 or 20.

**Modifications etc. (not altering text)**

**C8** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I8** S. 17 wholly in force at 1.11.2000; s. 17 not in force at Royal Assent see s. 108; s. 17 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 17 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

**18 Discharge of functions by area committees.**

- (1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority, or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive by an area committee of that authority.
- (2) Regulations under this section may impose limitations or restrictions on the arrangements which may be made by virtue of the regulations (including limitations or restrictions on the functions which may be the subject of such arrangements).
- (3) In this section—

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“area committee”, in relation to a local authority, means a committee or sub-committee of the authority which satisfies the conditions in subsection (4),

“specified” means specified in regulations under this section.

- (4) A committee or sub-committee of a local authority satisfies the conditions in this subsection if—
- (a) the committee or sub-committee is established to discharge functions in respect of part of the area of the authority,
  - (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) either or both of the conditions in subsection (5) are satisfied in relation to that part.
- (5) Those conditions are—
- (a) that the area of that part does not exceed two-fifths of the total area of the authority,
  - (b) that the population of that part, as estimated by the authority, does not exceed two-fifths of the total population of the area of the authority as so estimated.

**Modifications etc. (not altering text)**

**C9** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)

**Commencement Information**

**I9** S. 18 wholly in force at 1.11.2000; s. 18 not in force at Royal Assent see s. 108; s. 18 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\)](#), [2\(a\)](#); s. 18 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

**19 Discharge of functions of and by another local authority.**

- (1) The Secretary of State may by regulations make provision for or in connection with enabling an executive of a local authority (within the meaning of this Part), or a committee or specified member of such an executive, to arrange for the discharge of any functions which, under executive arrangements, are the responsibility of the executive—
  - (a) by another local authority (within the meaning of section 101 of the <sup>M5</sup>Local Government Act 1972), or
  - (b) by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.
- (2) The Secretary of State may by regulations make provision for or in connection with enabling a local authority (within the meaning of section 101 of that Act) to arrange for the discharge of any of their functions by an executive of another local authority (within the meaning of this Part) or a committee or specified member of such an executive.
- (3) The reference in subsection (2) to the functions of a local authority, in a case where the authority are operating executive arrangements, is a reference to the functions which, under those arrangements, are not the responsibility of the authority’s executive.
- (4) Regulations under subsection (1) or (2) may include provision—

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- (a) requiring, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, the approval of the authority to such arrangements,
  - (b) which, in the case of arrangements for the discharge of any functions by a local authority, enables any of those functions to be delegated,
  - (c) which, in the case of arrangements for the discharge of any functions by an executive of a local authority or a committee or member of such an executive, enables any of those functions to be delegated.
- (5) The provision which may be made under subsection (4)(b) includes provision which applies or reproduces (with or without modifications) any provisions of section 101(2) to (4) of the <sup>M6</sup>Local Government Act 1972.
- (6) The provision which may be made under subsection (4)(c) includes provision which applies or reproduces (with or without modifications) any provisions of section 14(3) to (6), 15(5) to (9) or 16(3) to (5).
- (7) Nothing in subsection (4), (5) or (6) affects the generality of the power under subsection (1) or (2).
- (8) In this section “specified” means specified in regulations under this section.

#### Commencement Information

**I10** S. 19 wholly in force at 1.11.2000; s. 19 not in force at Royal Assent see s. 108; s. 19 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 19 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### Marginal Citations

**M5** 1972 c. 70.  
**M6** 1972 c. 70.

## 20 Joint exercise of functions.

- (1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the <sup>M7</sup>Local Government Act 1972 where any of the functions which are the subject of the arrangements are the responsibility of an executive of a local authority under executive arrangements.
- (2) The provision which may be made under subsection (1) includes provision—
- (a) as to the circumstances in which the executive, or a committee or specified member of the executive, is to be a party to the arrangements in place of the authority,
  - (b) as to the circumstances in which—
    - (i) the authority, and
    - (ii) the executive or a committee or specified member of the executive, are both to be parties to the arrangements,
  - (c) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of the <sup>M8</sup>Local Government Act 1972, so far as they relate to any joint committee falling within section 101(5)(a) of that Act, are instead to be exercised by the executive or a committee or specified member of the executive,

*Status: Point in time view as at 28/07/2007.*

*Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) as to the circumstances in which any functions of the local authority under section 101(2) or 102(1)(b), (2) or (3) of that Act, so far as they relate to any such joint committee, are to be exercised by the authority,
  - (e) as to the circumstances in which appointments to any such joint committee by the executive, or a committee or specified member of the executive, need not be made in accordance with the political balance requirements,
  - (f) as to the persons (including officers of the authority) who may be appointed to any such joint committee by the executive or a committee or specified member of the executive.
- (3) Nothing in subsection (2) affects the generality of the power under subsection (1).
- (4) In this section “specified” means specified in regulations under this section.

#### Commencement Information

**I11** S. 20 wholly in force at 1.11.2000; s. 20 not in force at Royal Assent see s. 108; s. 20 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 20 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### Marginal Citations

**M7** [1972 c. 70.](#)

**M8** [1972 c. 70.](#)

## 21 Overview and scrutiny committees.

- (1) Executive arrangements by a local authority must include provision for the appointment by the authority of one or more committees of the authority (referred to in this Part as overview and scrutiny committees).
- (2) Executive arrangements by a local authority must ensure that their overview and scrutiny committee has power (or their overview and scrutiny committees have power between them)—
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive,
  - (b) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are the responsibility of the executive,
  - (c) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are not the responsibility of the executive,
  - (d) to make reports or recommendations to the authority or the executive with respect to the discharge of any functions which are not the responsibility of the executive,
  - (e) to make reports or recommendations to the authority or the executive on matters which affect the authority’s area or the inhabitants of that area,
  - <sup>F1</sup>(f) in the case of the overview and scrutiny committee or committees of an authority to which <sup>F2</sup>section 244 of the National Health Service Act 2006 or section 184 of the National Health Service (Wales) Act 2006 applies, to review and scrutinise, in accordance with regulations under either of those sections,

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matters relating to the health service (within the meaning given by the Act concerned, and as extended by the section concerned) ] in the authority's area, and to make reports and recommendations on such matters in accordance with the regulations.]

- (3) The power of an overview and scrutiny committee under subsection (2)(a) to review or scrutinise a decision made but not implemented includes power—
  - (a) to recommend that the decision be reconsidered by the person who made it, or
  - (b) to arrange for its function under subsection (2)(a), so far as it relates to the decision, to be exercised by the authority.
- (4) Subject to subsection (5), an overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this section.
- (5) If or to the extent that a local authority's function of conducting best value reviews under section 5 of the <sup>M9</sup>Local Government Act 1999 is not the responsibility of an executive of the authority, the authority may arrange for their overview and scrutiny committee (or any of their overview and scrutiny committees) to conduct such a review.
- (6) An overview and scrutiny committee of a local authority—
  - (a) may appoint one or more sub-committees, and
  - (b) may arrange for the discharge of any of its functions by any such sub-committee.
- (7) A sub-committee of an overview and scrutiny committee may not discharge any functions other than those conferred on it under subsection (6)(b).
- (8) Executive arrangements by a local authority must include provision which enables—
  - (a) any member of an overview and scrutiny committee of the authority 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, and
  - (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.
- (9) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, may not include any member of the authority's executive.
- (10) An overview and scrutiny committee of a local authority, or any sub-committee of such a committee, may include persons who are not members of the authority, but (subject to any provision made by or under paragraphs 7 to 9 of Schedule 1) 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 [<sup>F3</sup>, unless permitted to do so under paragraph 12 of that Schedule].
- (11) An overview and scrutiny committee of a local authority, or a sub-committee of such a committee, is to be treated—
  - (a) as a committee or sub-committee of a principal council for the purposes of Part VA of the <sup>M10</sup>Local Government Act 1972 (access to meetings and documents of certain authorities, committees and sub-committees), and
  - (b) as a body to which section 15 of the <sup>M11</sup>Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

*Status: Point in time view as at 28/07/2007.*

*Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (12) Subsections (2) and (5) of section 102 of the <sup>M12</sup>Local Government Act 1972 are to apply to an overview and scrutiny committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.
- (13) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—
- (a) may require members of the executive, and officers of the authority, to attend before it to answer questions, and
  - (b) may invite other persons to attend meetings of the committee.
- (14) It is the duty of any member or officer mentioned in subsection (13)(a) to comply with any requirement so mentioned.
- (15) A person is not obliged by subsection (14) to answer any question which he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

#### Textual Amendments

- F1** S. 21(2)(f) inserted (1.1.2003 for E., otherwise 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), **ss. 7(1), 70(2)** (with [s. 7\(2\)–\(5\)](#), [64\(9\)](#), [65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), Sch. 1 Pt. II para. 8(a)
- F2** Words in s. 21(2)(f) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), **Sch. 1 para. 205** (with [Sch. 3 Pt. 1](#))
- F3** Words in s. 21(10) inserted (18.11.2003) by [Local Government Act 2003 \(c. 26\)](#), [s. 128\(3\)\(e\)](#), **Sch. 7 para. 80**; [S.I. 2003/2938](#), [art. 2\(a\)](#) (with [art. 8Sch.](#))

#### Modifications etc. (not altering text)

- C10** S. 21 applied (with modifications) (1.1.2003 for E. otherwise 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), **s. 10(3)(4), 70(2)** (with [ss. 64\(9\)](#), [65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), Sch. 1 Pt. II para. 8(a) (and the said amending [Health and Social Care Act 2001 \(c. 15\)](#), [s. 10](#) is repealed (1.3.2007) by the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 4](#))
- C11** S. 21 applied (with modifications) (1.3.2007) by [National Health Service Act 2006 \(c. 41\)](#), **s. 247(3)(4), 277(1)**
- C12** S. 21(4) excluded (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), **ss. 8(7), 70(2)** (with [ss. 64\(9\)](#), [65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), Sch. 1 Pt. II para. 8(a) (and the said amending [Health and Social Care Act 2001 \(c. 15\)](#), [s. 8](#) is repealed (1.3.2007) by the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 4](#))
- C13** S. 21(4) power to apply (with modifications) conferred (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\)](#), **ss. 8(3)(b), 70(2)** (with [ss. 64\(9\)](#), [65\(4\)](#)); [S.I. 2003/53](#), [art. 3\(a\)](#); [S.I. 2006/1407](#), Sch. 1 Pt. II para. 8(a) (and the said amending [Health and Social Care Act 2001 \(c. 15\)](#), [s. 8](#) is repealed (1.3.2007) by the [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 4](#))
- C14** S. 21(4) excluded (1.3.2007) by [National Health Service Act 2006 \(c. 41\)](#), **ss. 245(7), 277(1)**
- C15** S. 21(4) excluded (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\)](#), **ss. 185(7), 208(1)** (with [s. 19\(3\)](#))
- C16** S. 21(6)-(15) applied (with modifications) (E.) (1.1.2003) by [S.I. 2002/3048](#), **reg. 7(3)**

*Status: Point in time view as at 28/07/2007.*

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- C17** S. 21(6)-(15) power to apply (with modifications) conferred (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\), ss. 8\(3\)\(b\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53, art. 3\(a\)](#); [S.I. 2006/1407, Sch. 1 Pt. II para. 8\(a\)](#) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)
- C18** S. 21(10) excluded (11.5.2001 for specified purposes, otherwise 1.1.2003 for E. and (so far as not already in force) 1.3.2007 immediately before the National Health Service Act 2006 (c. 41) comes into force) by [Health and Social Care Act 2001 \(c. 15\), ss. 8\(8\), 70\(2\)](#) (with [ss. 64\(9\), 65\(4\)](#)); [S.I. 2003/53, art. 3\(a\)](#); [S.I. 2006/1407, Sch. 1 Pt. II para. 8\(a\)](#) (and the said amending Health and Social Care Act 2001 (c. 15), s. 8 is repealed (1.3.2007) by the National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), Sch. 4)
- C19** S. 21(10) excluded (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\), ss. 185\(8\), 208\(1\)](#) (with [s. 19\(3\)](#))
- C20** S. 21(10) excluded (1.3.2007) by [National Health Service Act 2006 \(c. 41\), ss. 245\(8\), 277\(1\)](#)

#### Commencement Information

- I12** S. 21 wholly in force at 28.7.2001; s. 21 not in force at Royal Assent see s. 108; s. 21 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849, arts. 1\(3\), 2\(a\)](#); s. 21 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

- M9** 1999 c. 27.  
**M10** 1972 c. 70.  
**M11** 1989 c. 42.  
**M12** 1972 c. 70.

## 22 Access to information etc.

- (1) Meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private.
- (2) Subject to regulations under subsection (9), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.
- (3) A written record must be kept of prescribed decisions made at meetings of local authorities executives, or committees of such executives, which are held in private.
- (4) A written record must be kept of prescribed decisions made by individual members of local authority executives.
- (5) Written records under subsection (3) or (4) must include reasons for the decisions to which they relate.
- (6) Written records under subsections (3) and (4), together with such reports, background papers or other documents as may be prescribed, must be made available to members of the public in accordance with regulations made by the Secretary of State.
- (7) Regulations under subsection (6) may make provision for or in connection with preventing the whole or part of any record or document containing prescribed information from being made available to members of the public.

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- (8) The Secretary of State may by regulations make provision—
- (a) with respect to the access of the public to meetings of joint committees, or sub-committees of such committees, at which decisions are made in connection with the discharge of functions which are the responsibility of executives (including provision enabling such meetings to be held in private),
  - (b) for or in connection with requiring written records to be kept of decisions made at meetings which by virtue of paragraph (a) are held in private,
  - (c) for or in connection with requiring written records falling within paragraph (b) to include reasons,
  - (d) for or in connection with requiring any such written records to be made available to members of the public,
  - (e) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of the public.
- (9) The Secretary of State may by regulations make provision—
- (a) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be open to the public,
  - (b) as to the circumstances in which meetings mentioned in subsection (2), or particular proceedings at such meetings, must be held in private,
  - (c) with respect to the information which is to be included in written records kept by virtue of this section,
  - (d) with respect to the reasons which are to be included in any such written records,
  - (e) with respect to the persons who are to produce, keep or make available any such written records,
  - (f) for or in connection with requiring any such written records to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,
  - (g) for or in connection with requiring documents connected with decisions to which any such written records relate to be made available to members of local authorities or to overview and scrutiny committees or sub-committees,
  - (h) for or in connection with requiring information to be made available by electronic means,
  - (i) for or in connection with conferring rights on members of the public, members of local authorities or overview and scrutiny committees or sub-committees in relation to records or documents,
  - (j) for or in connection with the creation of offences in respect of any rights or requirements conferred or imposed by virtue of this section.
- (10) The Secretary of State may by regulations make provision for or in connection with requiring prescribed information about prescribed decisions made in connection with the discharge of functions which are the responsibility of a local authority executive to be made available to members of the public or members of the authority.
- (11) The provision which may be made under subsection (10) includes provision—
- (a) requiring prescribed information to be made available in advance of the prescribed decisions mentioned in that subsection,
  - (b) as to the way or form in which prescribed information is to be made available.



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(12) The Secretary of State may by regulations make provision which, in relation to meetings of—

- (a) local authority executives or committees of such executives, or
- (b) joint committees, or sub-committees of such committees, falling within subsection (8)(a),

applies or reproduces (with or without modifications) any provisions of Part VA of the <sup>M13</sup>Local Government Act 1972.

(13) In this section—

“joint committee” means a joint committee falling within section 101(5)(a) of the <sup>M14</sup>Local Government Act 1972,

“prescribed” means prescribed by regulations made by the Secretary of State.

#### Commencement Information

**I13** S. 22 wholly in force at 28.7.2001; s. 22 not in force at Royal Assent see s. 108; s. 22 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 22 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 22(6)-(13) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 22 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M13** 1972 c. 70.

**M14** 1972 c. 70.

## 23 Further provision.

Schedule 1 (which makes further provision in relation to executive arrangements) has effect.

#### Commencement Information

**I14** S. 23 wholly in force at 28.7.2001; s. 23 not in force at Royal Assent see s. 108; s. 23 in force at 7.8.2000 for certain purposes in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(c\)](#); s. 23 in force at 26.10.2000 in relation to England only for certain purposes by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(c\)](#); s. 23 in force at 1.11.2000 in relation to Wales for certain purposes by [S.I. 2000/2948](#), [art. 2](#); s. 23 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 24 Absence of requirement for political balance.

Neither—

- (a) a local authority executive, nor
- (b) a committee of a local authority executive,

is to be regarded as a body to which section 15 of the <sup>M15</sup>Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

*Status: Point in time view as at 28/07/2007.*

*Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### **Commencement Information**

**I15** S. 24 wholly in force at 28.7.2001; s. 24 not in force at Royal Assent see s. 108; s. 24 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(a\)](#); s. 24 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### **Marginal Citations**

**M15** [1989 c. 42.](#)

### *Procedure with respect to operation of executive arrangements*

## **25 Proposals.**

- (1) Subject to section 31, every local authority must—
  - (a) draw up proposals for the operation of executive arrangements, and
  - (b) send a copy of the proposals to the Secretary of State.
- (2) Before drawing up proposals under this section, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (3) In drawing up proposals under this section, 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) are to be the responsibility of the executive.
- (4) In drawing up proposals under this section, 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.
- (5) A local authority must comply with any directions given by the Secretary of State for the purposes of this section.
- (6) Proposals under this section must include—
  - (a) such details of the executive arrangements as the Secretary of State 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.
- (7) A copy of proposals under this section which is sent to the Secretary of State must be accompanied by a statement which describes—
  - (a) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority's area, and
  - (b) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.
- (8) The Secretary of State may by order specify a date by which every local authority, or every local authority falling within any description of authority specified in the order, must comply with this section.

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#### Commencement Information

**I16** S. 25 wholly in force at 28.7.2001; s. 25 not in force at Royal Assent see s. 108; s. 25 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, arts. 1(3), 2(b); s. 25 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, arts. 1(3), 2(b); s. 25(5)(6)(8) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 25 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 26 Proposals not requiring referendum.

- (1) Where a local authority's proposals under section 25 do not involve a form of executive for which a referendum is required, the authority must implement the proposals in accordance with the timetable included in the proposals.
- (2) Any reference in this Part to a form of executive for which a referendum is required is a reference to—
  - (a) a mayor and cabinet executive,
  - (b) a mayor and council manager executive, or
  - (c) a form of executive prescribed in regulations under section 11(5) which is expressed in those regulations to be a form of executive for which a referendum is required.

#### Commencement Information

**I17** S. 26 wholly in force at 28.7.2001; s. 26 not in force at Royal Assent see s. 108; s. 26 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(a); s. 26 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 27 Referendum in case of proposals involving elected mayor.

- (1) Where a local authority's proposals under section 25 involve a form of executive for which a referendum is required, the authority—
  - (a) must hold a referendum on their proposals before taking any steps to implement them, and
  - (b) must draw up and send to the Secretary of State an outline of the fall-back proposals (referred to in this section as outline fall-back proposals) that they intend to implement if the proposals under section 25 are rejected in a referendum.
- (2) Fall-back proposals are proposals—
  - (a) for the operation of executive arrangements which do not involve a form of executive for which a referendum is required, or
  - (b) for the operation of alternative arrangements of a particular type permitted by regulations under section 32.
- (3) For the purpose of drawing up outline fall-back proposals, a local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.

*Status: Point in time view as at 28/07/2007.*

*Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Outline fall-back proposals must include a timetable with respect to the implementation of detailed fall-back proposals which are based on the outline fall-back proposals in the event that the proposals under section 25 are rejected in a referendum.
- (5) A local authority must send a copy of their outline fall-back proposals to the Secretary of State at the same time that a copy of the proposals under section 25 is sent to him.
- (6) A local authority may not hold a referendum under this section before the end of the period of two months beginning with the date on which a copy of the proposals under section 25 is sent to the Secretary of State.
- (7) If the result of a referendum under subsection (1) is to approve a local authority's proposals under section 25, the authority must implement the proposals in accordance with the timetable included in the proposals.
- (8) If the result of a referendum under subsection (1) is to reject a local authority's proposals under section 25, the authority—
  - (a) may not implement those proposals,
  - (b) must draw up detailed fall-back proposals which are based on the outline fall-back proposals, and
  - (c) must send a copy of the detailed fall-back proposals to the Secretary of State.
- (9) In drawing up outline fall-back proposals or detailed fall-back proposals under this section, a local authority must comply with any directions given by the Secretary of State.
- (10) Outline fall-back proposals and detailed fall-back proposals must include such details of the executive arrangements or alternative arrangements to which they relate as the Secretary of State may direct.
- (11) Subsections (2), (3)(b), (4) and (6)(c) of section 25 are to apply to detailed fall-back proposals involving executive arrangements as they apply to proposals under that section.
- (12) Subsections (2), (4) and (6)(c) of that section are to apply to detailed fall-back proposals involving alternative arrangements as they apply to proposals under that section.
- (13) A local authority must implement detailed fall-back proposals in accordance with the timetable mentioned in subsection (4).

#### **Modifications etc. (not altering text)**

- C21** S. 27(1)(a) applied (W.) (9.12.2004) by [The Local Authorities \(Changing Executive Arrangements and Alternative Arrangements\) \(Wales\) Regulations 2004 \(S.I. 2004/3158\)](#), regs. 1(1), **5(1)**
- C22** S. 27(8)-(12) modified (E.) (28.7.2007) by [Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), regs. 1(2), **14(6)**
- C23** S. 27(13) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), regs. 1(1), **17(7)**

#### **Commencement Information**

- I18** S. 27 wholly in force at 28.7.2001; s. 27 not in force at Royal Assent see s. 108; s. 27 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue

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guidance in relation to England only by S.I. 2000/2187, arts. 1(3), 2(b); s. 27 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, arts. 1(3), 2(b); s. 27(9) (10) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 27 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 28 Approval of outline fall-back proposals.

- (1) A local authority may apply to the Secretary of State for the approval of outline fall-back proposals involving fall-back proposals which are not permitted by or under this Part but which would be so permitted if the necessary regulations were made under section 11(5) or 32 (as the case may be).
- (2) The form and content of an application under subsection (1) must comply with any directions given by the Secretary of State.
- (3) Where the Secretary of State approves a local authority's proposals under subsection (1)—
  - (a) the authority may use those proposals as their outline fall-back proposals for the purposes of section 27, and
  - (b) the timetable referred to in section 27(13) shall be extended to the extent that there is any delay in making the necessary regulations under section 11(5) or 32 (as the case may be).

### Commencement Information

**I19** S. 28 wholly in force at 28.7.2001; s. 28 not in force at Royal Assent see s. 108; s. 28 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, arts. 1(3), 2(b); s. 28 in force at 26.10.2000 in relation to England only except in so far as already in force by S.I. 2000/2849, arts. 1(3), 2(b); s. 28(1) (2) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2; s. 28 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

## 29 Operation of, and publicity for, executive arrangements.

- (1) A resolution of a local authority is required in order for the authority to operate executive arrangements.
- (2) As soon as practicable after passing such a resolution a local authority must—
  - (a) secure that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at all reasonable hours, and
  - (b) publish in one or more newspapers circulating in their area a notice which—
    - (i) states that they have resolved to operate the arrangements,
    - (ii) states the date on which they are to begin operating the arrangements,
    - (iii) describes the main features of the arrangements,
    - (iv) states that copies of a document setting out the provisions of the arrangements are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and
    - (v) specifies the address of their principal office.

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- (3) A local authority which pass a resolution under this section may not at any subsequent time cease to operate executive arrangements unless, by virtue of any provision made under section 33(5), the authority operate alternative arrangements in place of the executive arrangements.

#### Modifications etc. (not altering text)

- C24** S. 29(1) applied (E.) (12.4.2001) by [S.I. 2001/1003](#), **reg. 10(1)**
- C25** S. 29(1) applied (W.) (25.11.2002) by [S.I. 2002/2880](#), **reg. 7(1)**
- C26** S. 29(1) applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), regs. 1(1), **17(8)(a)**
- C27** S. 29(1) applied (9.12.2004) by [The Local Authorities \(Changing Executive Arrangements and Alternative Arrangements\) \(Wales\) Regulations 2004 \(S.I. 2004/3158\)](#), regs. 1(1), **9(1)**
- C28** S. 29(1) applied (E.) (28.7.2007) by [Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), regs. 1(2), **17(8)(a)**
- C29** S. 29(2) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), regs. 1(1), **17(8)(b)**
- C30** S. 29(2) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), regs. 1(1), **17(9)(b)**
- C31** S. 29(2) applied (with modifications) (E.) (28.7.2007) by [Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), regs. 1(2), **17(8)(b)**

#### Commencement Information

- I20** S. 29 wholly in force at 28.7.2001; s. 29 not in force at Royal Assent see s. 108; s. 29 in force at 26.10.2000 in relation to England only by [S.I. 2000/2849](#), **arts. 1(3), 2(a)**; s. 29 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### 30 Operation of different executive arrangements.

- (1) The Secretary of State may by regulations make provision for or in connection with the operation by a local authority which are operating executive arrangements (“the existing arrangements”) of executive arrangements (“the different arrangements”) which differ from the existing arrangements in any respect.
- (2) The provision which may be made by virtue of subsection (1) includes provision—
- which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29,
  - for or in connection with requiring the consent of an elected mayor under the existing arrangements to the operation of the different arrangements,
  - with respect to changes to the existing arrangements as a result of changes to the functions which are the responsibility of an executive.
- (3) Nothing in subsection (2) affects the generality of the power under subsection (1).

#### Commencement Information

- I21** S. 30 wholly in force at 1.11.2000; s. 30 not in force at Royal Assent see s. 108; s. 30 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), **arts. 1(3), 2(a)**; s. 30 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), **art. 2**

*Status: Point in time view as at 28/07/2007.*

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*Alternative arrangements.*

**31 Alternative arrangements in case of certain local authorities.**

- (1) This section applies to—
  - (a) any local authority which falls within subsection (2), and
  - (b) any local authority which falls within any description of local authority specified in regulations made by the Secretary of State under this section.
- (2) A local authority falls within this subsection if—
  - (a) it is the council for a district comprised in an area for which there is a county council, and
  - (b) the resident population of the authority's area on 30th June 1999 was less than 85,000.
- (3) For the purposes of subsection (2)(b) the resident population of any area on 30th June 1999 is to be taken to be the Registrar General's estimate of that population on that date.
- (4) A local authority to which this section applies must either—
  - (a) draw up proposals for the operation of alternative arrangements of a particular type permitted by regulations under section 32, or
  - (b) draw up proposals under section 25.
- (5) In deciding whether to draw up proposals under this section or proposals under section 25, a local authority to which this section applies must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (6) In drawing up proposals under this section, 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.
- (7) A local authority which draw up proposals under this section must comply with such requirements as may be specified in regulations made by the Secretary of State under this section.
- (8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.
- (9) Nothing in subsection (8) affects the generality of the power under subsection (7).

**Commencement Information**

**I22** S. 31 wholly in force at 28.7.2001; s. 31 not in force at Royal Assent see s. 108; s. 31 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 31 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 31(1)(b) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 31 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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## 32 Alternative arrangements.

- (1) The Secretary of State may by regulations specify arrangements by a local authority with respect to the discharge of their functions (referred to in this Part as alternative arrangements) which are arrangements of a type—
  - (a) which do not involve the creation and operation of an executive of the authority,
  - (b) which include arrangements for the appointment of committees or sub-committees of the authority to review or scrutinise decisions made, or other action taken, in connection with the discharge of functions of the authority, and
  - (c) which the Secretary of State considers are likely to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.
- (2) The arrangements which may be specified by regulations under this section include—
  - (a) arrangements for the discharge of functions of a local authority by individual members of the authority or by individual members of any committee or sub-committee of the authority,
  - (b) arrangements for the appointment of committees or sub-committees of a local authority the membership of which is determined otherwise than in accordance with the political balance requirements.
- (3) Regulations under this section may make provision with respect to committees or sub-committees falling within subsection (1)(b) (including provision which applies or reproduces (with or without modifications) any provisions of section 21 or paragraphs 7 to 11 of Schedule 1<sup>F4</sup>, any provision made<sup>F5</sup>, in the case of regulations made by the Secretary of State, under section 244 of the National Health Service Act 2006 or any provision of section 246 of, or Schedule 17 to, that Act or, in the case of regulations made by the Welsh Ministers, under section 184 of the National Health Service (Wales) Act 2006 or any provision of section 186 of, or Schedule 11 to, that Act []).
- (4) Regulations under this section may make provision for the purpose of determining the functions of a local authority which may, may not or must be the subject of alternative arrangements of any particular type.
- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

### Textual Amendments

- F4** Words in s. 32(3) inserted (1.1.2003 for E.) by [Health and Social Care Act 2001 \(c. 15\)](#), s. 70(2), [Sch. 5 para. 13](#) (with ss. 64(9), 65(4)); S.I. 2003/53, art. 3(c)
- F5** Words in s. 32(3) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), s. 8(2), [Sch. 1 para. 206](#) (with Sch. 3 Pt. 1)

### Commencement Information

- I23** S. 32 wholly in force at 1.11.2000; s. 32 not in force at Royal Assent see s. 108; s. 32 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\)](#), [2\(a\)](#); s. 32 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)



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### **33 Operation of alternative arrangements.**

- (1) A local authority may not operate alternative arrangements unless permitted or required to do so by virtue of any provision made by or under this Part.
- (2) A resolution of a local authority is required in order for the authority to operate alternative arrangements.
- (3) Subsection (2) of section 29 is to apply for the purposes of this section as it applies for the purposes of that section.
- (4) A local authority which pass a resolution under this section to operate alternative arrangements may not at any subsequent time cease to operate those arrangements unless, by virtue of any provision made under subsection (9) or section 34, 35 or 36, the authority operate executive arrangements in place of those arrangements.
- (5) The Secretary of State may by regulations make provision for or in connection with enabling a local authority to which section 31 applies which are operating executive arrangements to operate alternative arrangements in place of the executive arrangements.
- (6) The provision which may be made by virtue of subsection (5) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27 or 28.
- (7) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate alternative arrangements which differ from the existing alternative arrangements in any respect.
- (8) The provision which may be made by virtue of subsection (7) includes provision which applies or reproduces (with or without modifications) any provisions of section 25 or 26.
- (9) The Secretary of State may by regulations make provision for or in connection with enabling a local authority which are operating alternative arrangements to operate executive arrangements in place of the alternative arrangements.
- (10) The provision which may be made by virtue of subsection (9) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 26, 27, 28 or 29.
- (11) Nothing in subsection (6), (8) or (10) affects the generality of the power under subsection (5), (7) or (9) (as the case may be).

#### **Modifications etc. (not altering text)**

- C32** S. 33(2) applied (W.) (25.11.2002) by [S.I. 2002/2880, reg. 7\(2\)](#)
- C33** S. 33(2) applied (E.) (12.4.2001) by [S.I. 2001/1003, reg. 10\(2\)](#)
- C34** S. 33(2) applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\), regs. 1\(1\), 17\(9\)\(a\)](#)
- C35** S. 33(2) applied (W.) (9.12.2004) by [The Local Authorities \(Changing Executive Arrangements and Alternative Arrangements\) \(Wales\) Regulations 2004 \(S.I. 2004/3158\), regs. 1\(1\), 9\(2\)](#)

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#### Commencement Information

**I24** S. 33 wholly in force at 28.7.2001; s. 33 not in force at Royal Assent see s. 108; s. 33 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 33 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 33(5)-(11) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 33 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### Referendums

#### 34 Referendum following petition.

- (1) The Secretary of State may by regulations make provision for or in connection with requiring a local authority which receive a petition which complies with the provisions of the regulations to hold a referendum, in such circumstances as may be prescribed in the regulations, on whether the authority should operate executive arrangements involving a form of executive for which a referendum is required.
- (2) The provision which may be made by regulations under subsection (1) includes provision—
  - (a) as to the form and content of petitions (including provision for petitions in electronic form),
  - (b) as to the minimum number of local government electors for a local authority's area who must support any petition presented to the authority during any period specified in the regulations,
  - (c) for or in connection with requiring an officer of a local authority to publish the number of local government electors for the authority's area who must support any petition presented to the authority,
  - (d) as to the way in which local government electors for a local authority's area are to support a petition (including provision enabling local government electors to support petitions by telephone or by electronic means),
  - (e) as to the action which may, may not or must be taken by a local authority in connection with any petition,
  - (f) as to the manner in which a petition is to be presented to a local authority,
  - (g) as to the verification of any petition,
  - (h) as to the date on which, or the time by which, a referendum must be held,
  - (i) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
  - (j) as to the action which may, may not or must be taken by a local authority after a referendum, and
  - (k) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33.
- (4) The number of local government electors mentioned in subsection (2)(b) is to be calculated at such times as may be provided by regulations under this section and

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(unless such regulations otherwise provide) is to be 5 per cent. of the number of local government electors at each of those times.

- (5) Nothing in subsection (2), (3) or (4) affects the generality of the power under subsection (1).

#### Commencement Information

**I25** S. 34 wholly in force at 1.11.2000; s. 34 not in force at Royal Assent s. 108; s. 34 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 34 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### 35 Referendum following direction.

- (1) The Secretary of State may by regulations make provision for or in connection with enabling him, in such circumstances as may be prescribed in the regulations, to direct a local authority to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the direction.
- (2) The provision which may be made by regulations under this section includes provision—
- (a) as to the date on which, or the time by which, a referendum must be held,
  - (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
  - (c) as to the action which may, may not or must be taken by a local authority after a referendum, and
  - (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the regulations, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33.
- (4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

#### Commencement Information

**I26** S. 35 wholly in force at 1.11.2000; s. 35 not in force at Royal Assent see s. 108; s. 35 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 35 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### 36 Referendum following order.

- (1) The Secretary of State may by order make provision requiring every local authority, or every local authority falling within any description of authority specified in the order, to hold a referendum on whether they should operate executive arrangements involving an executive which takes such form permitted by or under section 11 as may be specified in the order.

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**Changes to legislation:** *Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 10 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) The provision which may be made by an order under this section includes provision—
- (a) as to the date on which, or the time by which, a referendum must be held,
  - (b) as to the action which may, may not or must be taken by a local authority before or in connection with a referendum,
  - (c) as to the action which may, may not or must be taken by a local authority after a referendum,
  - (d) for or in connection with enabling the Secretary of State, in the event of any failure by a local authority to take any action permitted or required by virtue of the order, to take that action.
- (3) The provision which may be made by virtue of subsection (2) includes provision which applies or reproduces (with or without modifications) any provisions of section 25, 27, 28, 29 or 33.
- (4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

#### **Commencement Information**

**I27** S. 36 wholly in force at 1.11.2000; s. 36 not in force at Royal Assent see s. 108; s. 36 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 36 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

### *Local authority constitution*

#### **37 Local authority constitution.**

- (1) A local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in this section as their constitution) which contains—
- (a) such information as the Secretary of State may direct,
  - (b) a copy of the authority's standing orders for the time being,
  - (c) a copy of the authority's code of conduct for the time being under section 51, and
  - (d) such other information (if any) as the authority consider appropriate.
- (2) A local authority must ensure that copies of their constitution are available at their principal office for inspection by members of the public at all reasonable hours.
- (3) A local authority must supply a copy of their constitution to any person who requests a copy and who pays to the authority such reasonable fee as the authority may determine.

#### **Commencement Information**

**I28** S. 37 wholly in force at 28.7.2001; s. 37 not in force at Royal Assent see s. 108; s. 37 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 37 in force at 26.10.2000 in relation to England only except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(b\)](#); s. 37(1) (a) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 37 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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## Guidance

### 38 Guidance.

- (1) A local authority must have regard to any guidance for the time being issued by the Secretary of State for the purposes of this Part.
- (2) Guidance under this section may make different provision for different cases or descriptions of local authority.

#### Commencement Information

**I29** S. 38 wholly in force at 1.11.2000; s. 38 not in force at Royal Assent see s. 108; s. 38 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 38 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

## Elected mayors etc.

### 39 Elected mayors etc.

- (1) In this Part “elected mayor”, in relation to a local authority, means an individual elected as mayor of the authority by the local government electors for the authority’s area in accordance with the provisions made by or under this Part.
- (2) An elected mayor of a local authority in England is to be entitled to the style of “mayor”.
- (3) An elected mayor of a local authority in Wales is to be entitled to the style of “mayor” or “maer”.
- (4) In this Part “elected executive member” means an individual elected as a member of a local authority executive by the local government electors for the authority’s area in accordance with the provisions made by or under this Part, but does not include an elected mayor.
- (5) An elected mayor of a local authority is to be treated as a member or councillor of the authority for the purposes of such enactments (whenever passed or made) as may be specified in regulations made by the Secretary of State under this subsection.
- (6) Subject to regulations under section 41, the term of office of an elected mayor or elected executive member is to be four years.

#### Commencement Information

**I30** S. 39 wholly in force at 28.7.2001; s. 39 not in force at Royal Assent see s. 108; s. 39 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(b\)](#); s. 39(1)(2)(4)-(6) in force at 26.10.2000 in relation to England except in so far as already in force by [S.I. 2000/2849](#), [arts. 1\(3\), 2\(d\)](#); s. 39(1)(3)-(5) in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#); s. 39 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

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#### 40 Election as elected mayor and councillor.

- (1) If the person who is returned at an election as the elected mayor of a local authority is also returned at an election held at the same time as a councillor of the authority, a vacancy shall arise in the office of councillor.
- (2) If the person who is returned at an election (“the mayoral election”) as the elected mayor of a local authority—
  - (a) is a councillor of the authority, and
  - (b) was returned as such a councillor at an election held at an earlier time than the mayoral election,
 a vacancy shall arise in the office of councillor.
- (3) Subject to subsection (4), a person who is the elected mayor of a local authority may not be a candidate in an election for the return of a councillor or councillors of the authority.
- (4) A person who is the elected mayor of a local authority may be a candidate in an election for the return of a councillor or councillors of the authority if the election is held at the same time as an election for the return of the elected mayor of the authority, but subsection (1) applies if he is a candidate in both such elections and he is returned both as the elected mayor and as a councillor.

#### 41 Time of elections etc.

The Secretary of State may by regulations make provision—

- (a) as to the dates on which and years in which elections for the return of elected mayors or elected executive members may or must take place,
- (b) as to the intervals between elections for the return of elected mayors or elected executive members,
- (c) as to the term of office of elected mayors or elected executive members, and
- (d) as to the filling of vacancies in the office of elected mayor or elected executive member.

#### Commencement Information

**I31** S. 41 wholly in force at 1.11.2000; s. 41 not in force at Royal Assent see s. 108; s. 41 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 41 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### 42 Voting at elections of elected mayors.

- (1) Each person entitled to vote as an elector at an election for the return of an elected mayor is to have the following vote or votes—
  - (a) one vote (referred to in this Part as a first preference vote) which may be given for the voter’s first preference from among the candidates to be the elected mayor, and
  - (b) if there are three or more candidates to be the elected mayor, one vote (referred to in this Part as a second preference vote) which may be given for the voter’s second preference from among those candidates.

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- (2) The elected mayor is to be returned under the simple majority system, unless there are three or more candidates.
- (3) If there are three or more candidates to be the elected mayor, the elected mayor is to be returned under the supplementary vote system in accordance with Schedule 2.

**Modifications etc. (not altering text)**

**C36** S. 42(2) applied by SI 2002/185 Sch. 3 rule 48(1) (as substituted (13.3.2004) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) \(Amendment\) Regulations 2004 \(S.I. 2004/225\)](#), regs. 1, 2(7), [Sch.](#))

**43 Entitlement to vote.**

- (1) The persons entitled to vote as electors at an election for the return of an elected mayor or elected executive member are those who on the day of the poll—
  - (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the area of the local authority concerned, and
  - (b) are registered in the register of local government electors at an address within the authority's area.
- (2) A person is not entitled as an elector to cast more than one first preference vote, or more than one second preference vote, at an election for the return of an elected mayor.

**44 Power to make provision about elections.**

- (1) The Secretary of State may by regulations make provision as to—
  - (a) the conduct of elections for the return of elected mayors or elected executive members, and
  - (b) the questioning of elections for the return of elected mayors or elected executive members and the consequences of irregularities.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
  - (a) about the registration of electors,
  - (b) for disregarding alterations in a register of electors,
  - (c) about the limitation of election expenses (and the creation of criminal offences in connection with the limitation of such expenses),
  - (d) for the combination of polls at elections for the return of elected mayors and other elections (including elections for the return of elected executive members), and
  - (e) for the combination of polls at elections for the return of elected executive members and other elections (including elections for the return of elected mayors).
- (3) Regulations under this section may—
  - (a) apply or incorporate, with or without modifications or exceptions, any provision of, or made under, the Representation of the People Acts or any provision of any other enactment (whenever passed or made) relating to parliamentary elections or local government elections,

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- (b) modify any form contained in, or in regulations or rules made under, the Representation of the People Acts so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for the return of elected mayors or elected executive members, and
- (c) so far as may be necessary in consequence of any provision made by or under this Part or any regulations under this section, amend any provision of any enactment (whenever passed or made) relating to the registration of parliamentary electors or local government electors.

<sup>F6</sup>[( 3A ) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission.

(3B) In addition, the power of the Secretary of State to make regulations under this section so far as relating to matters mentioned in subsection (2)(c) shall be exercisable only on, and in accordance with, a recommendation of the Electoral Commission, except where the Secretary of State considers that it is expedient to exercise that power in consequence of changes in the value of money.]

(4) No return of an elected mayor or elected executive member at an election is to be questioned except by an election petition under the provisions of Part III of the <sup>M16</sup>Representation of the <sup>M17</sup>People Act 1983 as applied by or incorporated in regulations under this section.

#### Textual Amendments

**F6** S. 44(3A)(3B) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(2)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (with Sch. 2 Pt. II para. 2)

#### Modifications etc. (not altering text)

**C37** S. 44(4) modified (coming into force in accordance with reg. 1(2) of the amending Regulations) by **Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007** (S.I. 2007/1024), regs. 1(2), **5** (as amended (6.4.2014) by **The Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2014** (S.I. 2014/370), regs. 1(2), **4** (with reg. 1(2)))

#### Commencement Information

**I32** S. 44 wholly in force at 28.7.2001; s. 44 not in force at Royal Assent see s. 108; s. 44 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3), 2(b)**; s. 44 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 44 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M16** 1983 c. 2.  
**M17** 1983 c. 2.

### *Provisions with respect to referendums*

#### **45 Provisions with respect to referendums.**

(1) A local authority may not hold more than one referendum in any period of five years.



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- (2) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to approve the proposals to which the referendum relates, the local authority concerned must implement those proposals in accordance with any provision made by the regulations or order.
  - (3) If the result of a referendum held by virtue of regulations or an order made under any provision of this Part is to reject the proposals to which the referendum relates, the local authority concerned may not implement those proposals but must instead comply with any provision made by the regulations or order.
  - (4) The persons entitled to vote in a referendum held by a local authority are those who on the day of the referendum—
    - (a) would be entitled to vote as electors at an election of councillors for an electoral area which is situated within the authority's area, and
    - (b) are registered in the register of local government electors at an address within the authority's area.
  - (5) The Secretary of State may by regulations make provision as to the conduct of referendums.
  - (6) The Secretary of State may by regulations make provision for the combination of polls at referendums with polls at any elections.
  - (7) Regulations under subsection (5) or (6) may apply or incorporate, with or without modifications or exceptions, any provision of any enactment (whenever passed or made) relating to elections or referendums.
  - (8) The provision which may be made under subsection (5) includes, in particular, provision—
    - (a) as to the question to be asked in a referendum,
    - (b) as to the publicity to be given in connection with a referendum (including the publicity to be given with respect to the consequences of the referendum),
    - (c) about the limitation of expenditure in connection with a referendum (and the creation of criminal offences in connection with the limitation of such expenditure),
    - (d) as to the conduct of the authority, members of the authority and officers of the authority in relation to a referendum,
    - (e) as to when, where and how voting in a referendum is to take place,
    - (f) as to how the votes cast in a referendum are to be counted, and
    - (g) for disregarding alterations in a register of electors.
- <sup>F7</sup>[( 8A ) Before making any regulations under this section, the Secretary of State shall consult the Electoral Commission, but this subsection does not apply to—
- (a) provisions which specify the wording of the question to be asked in a referendum, or
  - (b) provisions for matters mentioned in subsection (8)(c).
- (8B) No regulations which specify the wording of the question to be asked in a referendum may be made under subsection (5) unless—
- (a) before laying a draft of the regulations before Parliament in accordance with section 105(6), the Secretary of State consulted the Electoral Commission as to the intelligibility of that question, and

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- (b) when so laying the draft, the Secretary of State also laid before each House a report stating any views as to the intelligibility of that question which were expressed by the Electoral Commission in response to that consultation.
- (8C) Where any such regulations specify not only the question to be asked in a referendum but also any statement which is to precede that question on the ballot paper at the referendum, any reference in subsection (8B) to the intelligibility of that question is to be read as a reference to the intelligibility of that question and that statement taken together.
- (8D) No regulations which make provision for the matters mentioned in subsection (8)(c) may be made under subsection (5) unless—
- (a) before laying a draft of the regulations before Parliament in accordance with section 105(6), the Secretary of State sought, and had regard to, the views of the Electoral Commission as to the provision to be made by the regulations as to those matters, and
  - (b) where the draft regulations laid before Parliament made provision as to those matters otherwise than in accordance with the views of the Electoral Commission, the Secretary of State, when so laying the draft, also laid before each House a statement of his reasons for departing from the views of the Commission.]
- (9) In subsections (1), (4) to (6) and (8) [<sup>F8</sup>to (8C)] “referendum” means a referendum held under section 27 or by virtue of regulations or an order made under any provision of this Part.

#### Textual Amendments

- F7** S. 45(8A)-(8D) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(3)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (Sch. 2 Pt. II para. 2)
- F8** Words in s. 45(9) inserted (1.7.2001) by 2000 c. 41, s. 158(1), **Sch. 21 para. 18(4)** (with s. 156(6)); S.I. 2001/222, art. 4, **Sch. 2 Pt. I** (Sch. 2 Pt. II para. 2)

#### Commencement Information

- I33** S. 45 wholly in force at 28.7.2001; s. 45 not in force at Royal Assent see s. 108; s. 45 in force at 7.8.2000 in so far as it confers power to make an order or regulations, give directions, or issue guidance in relation to England only by S.I. 2000/2187, **arts. 1(3), 2(b)**; s. 45(5)-(9) in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, **art. 2**; s. 45 in force at 19.2.2001 in relation to England only except in so far as not already in force by S.I. 2001/415, **arts. 1(3), 2(a)**; s. 45 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

### *Amendments to the 1972 Act*

#### 46 Amendments to the 1972 Act.

Schedule 3, which contains amendments to the <sup>M18</sup>Local Government Act 1972, has effect.

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#### Commencement Information

**I34** S. 46 wholly in force at 28.7.2001; s. 46 not in force at Royal Assent see s. 108; s. 46 in force at 26.10.2000 in relation to England only by S.I. 2000/2849, arts. 1(3), 2(e); s. 46 in force at 28.7.2001 in so far as not already in force see s. 108(4)-(6)

#### Marginal Citations

**M18** 1972 c. 70.

### *Power to make further provision*

#### **47 Power to make incidental, consequential provision etc.**

- (1) The Secretary of State may by order make such incidental, consequential, transitional or supplemental provision as he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision made by or under this Part.
- (2) The provision which may be made under subsection (1) includes provision modifying any enactment (whenever passed or made).
- (3) The power under subsection (2) to modify an enactment is a power—
  - (a) to apply that enactment with or without modifications,
  - (b) to extend, disapply or amend that enactment, or
  - (c) to repeal or revoke that enactment with or without savings.

#### Commencement Information

**I35** S. 47 wholly in force at 1.11.2000; s. 47 not in force at Royal Assent see s. 108; s. 47 in force at 7.8.2000 in relation to England only by S.I. 2000/2187, arts. 1(3), 2(a); s. 47 in force at 1.11.2000 in relation to Wales by S.I. 2000/2948, art. 2

### *Interpretation*

#### **48 Interpretation of Part II.**

- (1) In this Part, unless the context otherwise requires—
  - “alternative arrangements” has the meaning given by section 32(1),
  - “council manager” has the meaning given by section 11(4)(b),
  - “elected executive member” has the meaning given by section 39(4),
  - “elected mayor” has the meaning given by section 39(1),
  - “electoral area” has the meaning given by section 203(1) of the<sup>M19</sup>Representation of the People Act 1983,
  - “enactment” includes an enactment contained in a local Act or comprised in subordinate legislation (within the meaning of the<sup>M20</sup>Interpretation Act 1978),
  - “executive”, in relation to a local authority, is to be construed in accordance with section 11,
  - “executive arrangements” has the meaning given by section 10,
  - “executive leader” has the meaning given by section 11(3)(a),

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“fall-back proposals” and “outline fall-back proposals” are to be construed in accordance with section 27(1) and (2),

“first preference vote” has the meaning given by section 42(1)(a),

“local authority” means—

(a) in relation to England, a county council, a district council or a London borough council, and

(b) in relation to Wales, a county council or a county borough council,

“local government elector” has the meaning given by section 270(1) of the <sup>M21</sup>Local Government Act 1972,

“overview and scrutiny committee” has the meaning given by section 21(1),

“the political balance requirements” means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the <sup>M22</sup>Local Government and Housing Act 1989,

“second preference vote” has the meaning given by section 42(1)(b).

- (2) Any reference in this Part to the chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
  - (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the <sup>M23</sup>Local Government Act 1972) is referred to in Part I of that Schedule as the mayor of the borough.
- (3) Any reference in this Part to the vice-chairman of a local authority—
- (a) is a reference to that person whether or not he is entitled to another style, and
  - (b) in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the <sup>M24</sup>Local Government Act 1972) is referred to in Part I of that Schedule as the deputy mayor.
- (4) Any reference in this Part to the discharge of any functions includes a reference to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of those functions.
- (5) Section 101 of the <sup>M25</sup>Local Government Act 1972 does not apply to the function of the passing of a resolution under any provision made by or under this Part.
- (6) Any functions conferred on a local authority by virtue of this Part are not to be the responsibility of an executive of the authority under executive arrangements.
- (7) Any directions given by the Secretary of State under any provision of this Part—
- (a) may be varied or revoked by subsequent directions given by him under that provision, and
  - (b) may make different provision for different cases, local authorities or descriptions of local authority.

#### Commencement Information

**I36** S. 48 wholly in force at 1.11.2000; s. 48 not in force at Royal Assent see s. 108(4)-(6); s. 48 in force at 7.8.2000 in relation to England only by [S.I. 2000/2187](#), [arts. 1\(3\), 2\(a\)](#); s. 48 in force at 1.11.2000 in relation to Wales by [S.I. 2000/2948](#), [art. 2](#)

#### Marginal Citations

**M19** 1983 c. 2.

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**M20** 1978 c. 30.

**M21** 1972 c. 70.

**M22** 1989 c. 42.

**M23** 1972 c. 70.

**M24** 1972 c. 70.

**M25** 1972 c. 70.

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