



Local Government Act 2000

2000 CHAPTER 22

PART II **E+W**

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**
- C4 Pt. II applied in part (with modifications) (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), arts. 1, **7(4)**
- C5 Pt. II applied in part (with modifications) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **16(7)**
- C6 Pt. II modified (29.8.2008) by The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 (S.I. 2008/2113), regs. 1, **10**

Executive arrangements

10 Executive arrangements. **E+W**

- (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.

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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

- 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)

Local authority executives

11 Local authority executives. **E+W**

[^{F1}(1) The executive of a local authority must take a form specified in subsections (2) to (5) that is applicable to the authority.]

- (2) [^{F2}In the case of any local authority in England or Wales, the executive 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.

- [^{F3}(2A) In the case of any local authority in England, the executive 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 the executive leader.

Such an executive is referred to in this Part as a leader and cabinet executive (England).]

- (3) [^{F4}In the case of any local authority in Wales, the executive 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 [^{F5}leader and cabinet executive (Wales)].

- (4) [^{F6}[^{F7}In the case of any local authority in Wales, the executive 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) [^{F8}In the case of a local authority in England or Wales, the executive] 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—

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- (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 [^{F9}specify] a different maximum number of members of an executive to which [^{F10}subsection (8)] applies, but the power under this subsection may not be exercised [^{F11}in relation to Wales] so as to provide for a maximum number which exceeds 10.
- [^{F12}(9A) In this Part, a reference to a leader and cabinet executive is a reference to either or both of the following, as appropriate in the context—
- (a) a leader and cabinet executive (England);
 - (b) a leader and cabinet executive (Wales).]

(10) Section 101 of the ^{M1}Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the function of electing a leader under [^{F13}subsection (2A)(a) or (3)(a)] or appointing councillors [^{F14}or an officer]to the executive under subsection (3)(b)(ii) [^{F15}or (4)(b)].

Textual Amendments

- F1** S. 11(1) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(2\)](#), 245(2)
- F2** Words in s. 11(2) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(3\)](#), 245(2)
- F3** S. 11(2A) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(4\)](#), 245(2)
- F4** Words in s. 11(3) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(5\)\(a\)](#), 245(2)
- F5** Words in s. 11(3) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(5\)\(b\)](#), 245(2)
- F6** S. 11(4) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 34\(2\)\(a\)](#), 178(2), [Sch. 4 Pt. B](#)
- F7** Words in s. 11(4) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(6\)](#), 245(2)
- F8** Words in s. 11(5) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(7\)](#), 245(2)
- F9** Word in s. 11(9) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(8\)\(a\)](#), 245(2)
- F10** Words in s. 11(9) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(8\)\(b\)](#), 245(2)
- F11** Words in s. 11(9) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 62\(8\)\(c\)](#), 245(2)

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- F12** S. 11(9A) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 62(9)**, 245(2)
- F13** Words in s. 11(10) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 62(10)**, 245(2)
- F14** Words in s. 11(10) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 34(2)(b)(i)**, 178(2), **Sch. 4 Pt. B**
- F15** Words in s. 11(10) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 34(2)(b)(ii)**, 178(2), **Sch. 4 Pt. B**

Modifications etc. (not altering text)

- C7** S. 11 applied (with modifications) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), **arts. 1**, **16(2)**

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. E+W

- (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

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- (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
 - (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. E+W

- (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—

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- (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
 - (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 ^{M2}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 ^{F16}or section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England)] 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 ^{M3}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 ^{M4}Local Government Act 1972 or any provision of that section).

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(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
- (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.

Textual Amendments

- F16** Words in s. 13(9)(b) inserted (12.12.2008 for specified purposes, 1.4.2009 in so far as not already in force) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 236\(9\)](#), 245(5); [S.I. 2008/3110](#), arts. 2(h), 4(i)

Modifications etc. (not altering text)

- C8** S. 13 modified (26.2.2008) by [The Northumberland \(Structural Change\) Order 2008 \(S.I. 2008/494\)](#), arts. 1, [8\(5\)](#)
- C9** S. 13 modified (26.2.2008) by [The County Durham \(Structural Change\) Order 2008 \(S.I. 2008/493\)](#), arts. 1, [8\(5\)](#)
- C10** S. 13 modified (temp. until 1/4/2009) (26.2.2008) by [The Cornwall \(Structural Change\) Order 2008 \(S.I. 2008/491\)](#), arts. 1, [8\(5\)](#)
- C11** S. 13 modified (temp. until 1/4/2009) (26.2.2008) by [The Shropshire \(Structural Change\) Order 2008 \(S.I. 2008/492\)](#), arts. 1, [8\(5\)](#)
- C12** S. 13 modified (temp. until 1/4/2009) (26.2.2008) by [The Wiltshire \(Structural Change\) Order 2008 \(S.I. 2008/490\)](#), arts. 1, [8\(5\)](#)
- C13** S. 13 modified (temp. until 1/4/2009) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), arts. 1, [9\(5\)](#)
- C14** S. 13 modified (temp.) (25.3.2010) by [The Norwich and Norfolk \(Structural Changes\) Order 2010 \(S.I. 2010/997\)](#), arts. 1, [6\(5\)](#)
- C15** S. 13 modified (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by [The Exeter and Devon \(Structural Changes\) Order 2010 \(S.I. 2010/998\)](#), arts. 1, [6\(5\)](#)

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.

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Provisions with respect to executive arrangements

14 [F17 **Discharge of functions: general**] **E+W**

- [F18(1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of—
- (a) a mayor and cabinet executive, or
 - (b) a leader and cabinet executive (England),
- are to be discharged in accordance with this section.]
- (2) The [F19 senior executive member] —
- (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 [F20 senior executive member] 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 [F21 senior executive member] otherwise directs, [F22 the member who may discharge the function] 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 [F23 senior executive member] otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the authority.
- (6) Any arrangements made by virtue of this section by [F24 a senior executive member], executive, member or committee for the discharge of any functions by an executive, member, committee or officer are not to prevent [F25 the senior executive member], executive, member or committee by whom the arrangements are made from exercising those functions.
- [F26(7) In this section “senior executive member” means—
- (a) in the case of a mayor and cabinet executive: the elected mayor;
 - (b) in the case of a leader and cabinet executive (England): the executive leader.]

Textual Amendments

- F17** Words in s. 14 title substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 63\(2\), 245\(2\)](#)
- F18** S. 14(1) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 63\(3\), 245\(2\)](#)
- F19** Words in s. 14(2) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 63\(4\), 245\(2\)](#)

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- F20** Words in s. 14(3) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(4\)](#), 245(2)
- F21** Words in s. 14(4) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(5\)\(a\)](#), 245(2)
- F22** Words in s. 14(4) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(5\)\(b\)](#), 245(2)
- F23** Words in s. 14(5) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(6\)](#), 245(2)
- F24** Words in s. 14(6) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(7\)\(a\)](#), 245(2)
- F25** Words in s. 14(6) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(7\)\(b\)](#), 245(2)
- F26** S. 14(7) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(8\)](#), 245(2)

Modifications etc. (not altering text)

- C16** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808](#), [art. 23\(b\)](#)
- C17** S. 14 applied (with modifications) (temp. until 1/4/2009) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), [arts. 1](#), [7\(2\)\(3\)](#)
- C18** Ss. 14-16 applied (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), [s. 20\(6\)\(7\)\(9\)](#), 324(3); [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 2](#)
- C19** S. 14 applied (with modifications) (temp.) (25.3.2010) by [The Norwich and Norfolk \(Structural Changes\) Order 2010 \(S.I. 2010/997\)](#), [arts. 1](#), [4\(2\)](#)
- C20** S. 14 modified (temp.) (25.3.2010) by [The Exeter and Devon \(Structural Changes\) Order 2010 \(S.I. 2010/998\)](#), [arts. 1](#), [4\(2\)](#)
- C21** S. 14(5) applied (with modifications) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), [arts. 1](#), [9\(2\)](#)
- C22** S. 14(5) modified (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by [The Exeter and Devon \(Structural Changes\) Order 2010 \(S.I. 2010/998\)](#), [arts. 1](#), [6\(2\)](#)
- C23** S. 14(5) modified (temp.) (25.3.2010) by [The Norwich and Norfolk \(Structural Changes\) Order 2010 \(S.I. 2010/997\)](#), [arts. 1](#), [6\(2\)](#)
- C24** S. 14(6) applied (with modifications) (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), [arts. 1](#), [9\(3\)](#)
- C25** S. 14(6) modified (temp.) (25.3.2010) by [The Norwich and Norfolk \(Structural Changes\) Order 2010 \(S.I. 2010/997\)](#), [arts. 1](#), [6\(3\)](#)
- C26** S. 14(6) modified (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by [The Exeter and Devon \(Structural Changes\) Order 2010 \(S.I. 2010/998\)](#), [arts. 1](#), [6\(3\)](#)

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 ^[F27]**Discharge of functions: leader and cabinet executive (Wales)** **E+W**

- (1) Subject to any provision made under section 18, 19 or 20, any functions which, under executive arrangements, are the responsibility of a ^[F28]leader and cabinet executive (Wales) 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,

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- (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.
- (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.

Textual Amendments

- F27** S. 15 title substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(9\)\(a\)](#), 245(2)
- F28** Words in s. 15(1) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 63\(9\)\(b\)](#), 245(2)

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Modifications etc. (not altering text)

- C18** Ss. 14-16 applied (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\), s. 20\(6\)\(7\)\(9\), 324\(3\); S.I. 2009/3345, art. 2, Sch. para. 2](#)
- C27** Ss. 14-18 restricted (W.) (1.4.2002) by [S.I. 2002/808, art. 23\(b\)](#)
- C28** S. 15 modified (26.2.2008) by [The Wiltshire \(Structural Change\) Order 2008 \(S.I. 2008/490\), arts. 1, 6\(2\)](#)
- C29** S. 15 modified (26.2.2008) by [The Shropshire \(Structural Change\) Order 2008 \(S.I. 2008/492\), arts. 1, 6\(2\)](#)
- C30** S. 15 modified (temp.) (26.2.2008) by [The County Durham \(Structural Change\) Order 2008 \(S.I. 2008/493\), arts. 1, 6\(2\)](#)
- C31** S. 15 modified (temp.) (26.2.2008) by [The Northumberland \(Structural Change\) Order 2008 \(S.I. 2008/494\), arts. 1, 6\(2\)](#)
- C32** S. 15 modified (26.2.2008) by [The Cornwall \(Structural Change\) Order 2008 \(S.I. 2008/491\), arts. 1, 6\(2\)](#)
- C33** S. 15(7)(9) modified (temp.) (26.2.2008) by [The County Durham \(Structural Change\) Order 2008 \(S.I. 2008/493\), arts. 1, 8\(2\)\(3\)](#)
- C34** S. 15(7)(9) modified (26.2.2008) by [The Cornwall \(Structural Change\) Order 2008 \(S.I. 2008/491\), arts. 1, 8\(2\)\(3\)](#)
- C35** S. 15(7) modified (temp.) (26.2.2008) by [The County Durham \(Structural Change\) Order 2008 \(S.I. 2008/493\), arts. 1, 11\(3\)](#)
- C36** S. 15(7)(9) modified (temp.) (26.2.2008) by [The Northumberland \(Structural Change\) Order 2008 \(S.I. 2008/494\), arts. 1, 8\(2\)\(3\)](#)
- C37** S. 15(7)(9) modified (26.2.2008) by [The Wiltshire \(Structural Change\) Order 2008 \(S.I. 2008/490\), arts. 1, 8\(2\)\(3\)](#)
- C38** S. 15(7)(9) modified (26.2.2008) by [The Shropshire \(Structural Change\) Order 2008 \(S.I. 2008/492\), arts. 1, 8\(2\)\(3\)](#)
- C39** S. 15(7) modified (temp.) (26.2.2008) by [The Northumberland \(Structural Change\) Order 2008 \(S.I. 2008/494\), arts. 1, 11\(3\)](#)
- C40** 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. E+W

[^{F29}(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

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- (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.
- (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.]

Textual Amendments

- F29** S. 16 repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 34(3), 178(2), [Sch. 4 Pt. B](#)

Modifications etc. (not altering text)

- C18** Ss. 14-16 applied (12.1.2010) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 20(6)(7)(9), 324(3); [S.I. 2009/3345](#), art. 2, Sch. para. 2
- C41** 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. **E+W**

- (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)

- C42** 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

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18 Discharge of functions by area committees. **E+W**

- (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—
 - ^[F30]“area committee” means—
 - (a) in relation to a local authority in England, a committee or sub-committee of the authority which satisfies the conditions in subsection (4);
 - (b) in relation to a local authority in Wales, a committee or sub-committee of the authority which satisfies the conditions in subsection (6);]
 - “specified” means specified in regulations under this section.
- (4) A committee or sub-committee of a local authority ^[F31]in England] 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.
- ^[F32](6) A committee or sub-committee of a local authority in Wales 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) that part consists of the whole of one or more electoral divisions of the authority,
 - (c) all the members of the authority who are elected for that electoral division, or those electoral divisions, are entitled to be members of the committee or sub-committee,
 - (d) no members of the authority, other than those mentioned in paragraph (c), may be members of the committee or sub-committee, and
 - (e) either or both of the conditions in subsection (7) are satisfied in relation to that part.
- (7) Those conditions are—
 - (a) that the area of that part does not exceed one-half of the total area of the authority;

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- (b) that the population of that part, as estimated by the authority, does not exceed one-half of the total population of the area of the authority as so estimated.]

Textual Amendments

- F30** Words in s. 18(3) substituted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 55(2)**, 178(2)
- F31** Words in s. 18(4) inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 55(3)**, 178(2)
- F32** S. 18(6)(7) inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 55(4)**, 178(2)

Modifications etc. (not altering text)

- C43** 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. **E+W**

- (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—
- by another local authority (within the meaning of section 101 of the ^{M5}Local Government Act 1972), or
 - 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—
- 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,
 - which, in the case of arrangements for the discharge of any functions by a local authority, enables any of those functions to be delegated,
 - 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.

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- (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 ^{M6}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. **E+W**

- (1) The Secretary of State may by regulations make provision for or in connection with permitting arrangements under section 101(5) of the ^{M7}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 ^{M8}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,
 - (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,

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- (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. **E+W**

- (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 [^{F33}, and any joint overview and scrutiny committees,] have power between them)—
- 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,
 - 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,
 - 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,
 - 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,
 - 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,
- [^{F34}(f) in the case of the overview and scrutiny committee or committees of an authority to which [^{F35}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, 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.]

[^{F36}(2A) In subsection (2), “joint overview and scrutiny committee”, in relation to a local authority (“the authority concerned”), means—

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- (a) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 245 of the National Health Service Act 2006 appointed by the authority concerned and one or more other local authorities,
 - (b) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section,
 - (c) a joint overview and scrutiny committee within the meaning given in subsection (2)(a) of section 185 of the National Health Service (Wales) Act 2006 appointed by the authority concerned and one or more other local authorities,
 - (d) an overview and scrutiny committee of another local authority exercising relevant functions (within the meaning given in subsection (1) of that section) of the authority concerned by virtue of arrangements made under regulations under subsection (2)(b) of that section, or
 - (e) a joint overview and scrutiny committee ^{F37}—
 - (i) within the meaning of section 123 of the Local Government and Public Involvement in Health Act 2007 ^{F38}(joint overview and scrutiny committees) appointed by two or more local authorities including the authority concerned ^{F39}, or
 - (ii) a joint overview and scrutiny committee within the meaning of section 58 of the Local Government (Wales) Measure 2011 appointed by two or more local authorities, one of which is the authority concerned].]
- (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) ^{F40}...an overview and scrutiny committee of a local authority may not discharge any functions other than its functions under this section ^{F41}, sections 21A to 21C ^{F42} or any functions which may be conferred on it by virtue of regulations under section 21E].
- ^{F43}(5)
- (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).
- ^{F44}(8)
- (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

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- on any question which falls to be decided at that meeting [^{F45}, 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 ^{M9}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 ^{M10}Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.
- (12) Subsections (2) and (5) of section 102 of the ^{M11}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,
 - ^{F46}(aa) may require any other member of the authority to attend before it to answer questions relating to any function which is exercisable by the member by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England),] and
 - (b) may invite other persons to attend meetings of the committee.
- (14) It is the duty of any member or officer mentioned in [^{F47}paragraph (a) or (aa) of subsection (13) to comply with any requirement mentioned in that paragraph].
- (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.
- ^{F48}(16) In exercising, or deciding whether to exercise, any of its functions—
- (a) an overview and scrutiny committee of a local authority in England, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Secretary of State; and
 - (b) an overview and scrutiny committee of a local authority in Wales, or a sub-committee of such a committee, must have regard to any guidance for the time being issued by the Welsh Ministers.
- (17) Guidance under subsection (16) may make different provision for different cases or for different descriptions of committee or sub-committee.]

Textual Amendments

- F33** Words in s. 21(2) inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 127\(1\)\(a\), 245\(5\); S.I. 2008/3110, art. 4\(g\)](#)
- F34** 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\(a\)](#)
- F35** 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 \(with Sch. 3 Pt. 1\)](#)
- F36** S. 21(2A) inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), ss. 127\(1\)\(b\), 245\(5\); S.I. 2008/3110, art. 4\(g\)](#)

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- F37** Words in s. 21(2A)(e) inserted and renumbered as s. 21(2A)(e)(i) (11.5.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 58(5)(a)**, 178(1)
- F38** Words in s. 21(2A)(e) substituted (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), **ss. 32(2)**, 148(2)(a)(ii)
- F39** Words in s. 21(2A)(e) inserted (11.5.2011) by Local Government (Wales) Measure 2011 (nawm 4), **ss. 58(5)(b)**, 178(1)
- F40** Words in s. 21(4) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 18 Pt. 8**; S.I. 2008/591, art. 2(d)(i)
- F41** Words in s. 21(4) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(1)(c)(i)**, 245(5); S.I. 2008/3110, art. 4(g)
- F42** Words in s. 21(4) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 127(1)(c)(ii)**, 245(5); S.I. 2008/3110, art. 4(g)
- F43** S. 21(5) repealed (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), s. 245(2), **Sch. 18 Pt. 8**; S.I. 2008/591, art. 2(d)(i)
- F44** S. 21(8) repealed (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 127(1)(d), 245(5), **Sch. 18 Pt. 6**; S.I. 2008/3110, art. 4(g)
- F45** 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.)
- F46** S. 21(13)(aa) inserted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 120(1)**, 245(5); S.I. 2008/3110, art. 4(b)
- F47** Words in s. 21(14) substituted (1.4.2009) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 120(2)**, 245(5); S.I. 2008/3110, art. 4(b)
- F48** S. 21(16)(17) inserted (12.12.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 125**, 245(5); S.I. 2008/3110, art. 2(b)

Modifications etc. (not altering text)

- C44** 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)
- C45** S. 21 applied (with modifications) (1.3.2007) by National Health Service Act 2006 (c. 41), **s. 247(3)(4)**, 277(1)
- C46** S. 21 excluded (temp. until 31/3/2009) (26.2.2008) by The Wiltshire (Structural Change) Order 2008 (S.I. 2008/490), arts. 1, **8(4)**
- C47** S. 21 excluded (temp.) (26.2.2008) by The County Durham (Structural Change) Order 2008 (S.I. 2008/493), arts. 1, **8(4)**
- C48** S. 21 excluded (temp. until 31/3/2009) (26.2.2008) by The Shropshire (Structural Change) Order 2008 (S.I. 2008/492), arts. 1, **8(4)**
- C49** S. 21 excluded (temp. until 31/3/2009) (26.2.2008) by The Cornwall (Structural Change) Order 2008 (S.I. 2008/491), arts. 1, **8(4)**
- C50** S. 21 excluded (temp.) (26.2.2008) by The Northumberland (Structural Change) Order 2008 (S.I. 2008/494), arts. 1, **8(4)**
- C51** S. 21 excluded (temp. until 31/3/2009) (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), arts. 1, **9(4)**
- C52** S. 21 excluded (temp.) (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **6(4)**
- C53** S. 21 excluded (temp.) (with effect in accordance with art. 6(1) of the amending S.I.) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **6(4)**
- C54** 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

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- 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)
- C55** 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)
- C56** S. 21(4) excluded (1.3.2007) by [National Health Service Act 2006 \(c. 41\), ss. 245\(7\), 277\(1\)](#)
- C57** S. 21(4) excluded (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\), ss. 185\(7\), 208\(1\)](#) (with [s. 19\(3\)](#))
- C58** S. 21(4): power to apply conferred by 2007 c. 28, s. 123(5)(b)(i) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 32\(1\), 148\(2\)\(a\)\(ii\)](#))
- C59** S. 21(6)-(15) applied (with modifications) (E.) (1.1.2003) by [S.I. 2002/3048, reg. 7\(3\)](#)
- C60** 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)
- C61** S. 21(6)-(12): power to apply conferred by 2007 c. 28, s. 123(5)(b)(i) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\), ss. 32\(1\), 148\(2\)\(a\)\(ii\)](#))
- C62** 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)
- C63** S. 21(10) excluded (1.3.2007) by [National Health Service \(Wales\) Act 2006 \(c. 42\), ss. 185\(8\), 208\(1\)](#) (with [s. 19\(3\)](#))
- C64** 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** 1972 c. 70.
M10 1989 c. 42.
M11 1972 c. 70.

[^{F49}21ZA]Scrutiny officers **E+W**

- (1) Subject as follows, a local authority in England must designate one of their officers to discharge the functions in subsection (2).
- (2) Those functions are—
 - (a) to promote the role of the authority's overview and scrutiny committee or committees;
 - (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;

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- (c) to provide support and guidance to—
 - (i) members of the authority,
 - (ii) members of the executive of the authority, and
 - (iii) officers of the authority,in relation to the functions of the authority's overview and scrutiny committee or committees.
- (3) An officer designated by a local authority under this section is to be known as the authority's “scrutiny officer”.
- (4) A local authority may not designate any of the following under this section—
 - (a) the head of the authority's paid service designated under section 4 of the Local Government and Housing Act 1989;
 - (b) the authority's monitoring officer designated under section 5 of that Act;
 - (c) the authority's chief finance officer, within the meaning of that section.
- (5) The duty in subsection (1) does not apply to a district council for an area for which there is a county council.
- (6) In this section, references to an overview and scrutiny committee include any sub-committee of that committee.]

Textual Amendments

F49 S. 21ZA inserted (1.4.2010) by [Local Democracy, Economic Development and Construction Act 2009](#) (c. 20), [ss. 31](#), [148\(2\)\(a\)\(i\)](#); [S.I. 2009/3318](#), [art. 4\(c\)](#)

[^{F50} 21A Reference of matters to overview and scrutiny committee etc **E+W**

- (1) Executive arrangements by a local authority must include provision which—
 - (a) enables any member of an overview and scrutiny committee of the authority to refer to the committee any matter which is relevant to the functions of the committee,
 - (b) enables any member of a sub-committee of such a committee to refer to the sub-committee any matter which is relevant to the functions of the sub-committee, and
 - (c) in the case of a local authority in England, enables any member of the authority to refer to an overview and scrutiny committee of the authority of which he is not a member any local government matter which is relevant to the functions of the committee.
- (2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.
- (3) In considering whether to exercise the power which he has by virtue of subsection (1)
 - (c) in any case, a member of an authority must have regard to any guidance for the time being issued by the Secretary of State.
- (4) Guidance under subsection (3) may make different provision for different cases.

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- (5) Subsections (6) to (8) apply where a local government matter is referred to an overview and scrutiny committee by a member of a local authority in accordance with provision made pursuant to subsection (1)(c).
- (6) In considering whether or not to exercise any of its powers under section 21(2) in relation to the matter, the committee may have regard to—
- (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
 - (b) any representations made by the member as to why it would be appropriate for the committee to exercise any of its powers under section 21(2) in relation to the matter.
- (7) If the committee decides not to exercise any of those powers in relation to the matter, it must notify the member of—
- (a) its decision, and
 - (b) the reasons for it.
- (8) The committee must provide the member with a copy of any report or recommendations which it makes to the authority or the executive under section 21(2) in relation to the matter.
- (9) Subsection (8) is subject to section 21D.
- (10) In this section “local government matter”, in relation to a member of a local authority, means a matter which—
- (a) relates to the discharge of any function of the authority,
 - (b) affects all or part of the electoral area for which the member is elected or any person who lives or works in that area, and
 - (c) is not an excluded matter.
- (11) In subsection (10)(c), “excluded matter” means any matter which is—
- (a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.]

Textual Amendments

F50 S. 21A inserted (12.12.2008 for specified purposes, 1.4.2009 in so far as not already in force) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 119, 245(5)**; S.I. 2008/3110, **arts. 2(a), 4(a)**

Modifications etc. (not altering text)

C65 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), **ss. 32(1), 148(2)(a)(ii)**)

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[^{F51}21B Duty of authority or executive to respond to overview and scrutiny committee **E**
+W

- (1) This section applies where an overview and scrutiny committee of a local authority in England makes a report or recommendations to the authority or the executive, otherwise than—
 - (a) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (b) by virtue of subsection (3)(a) of that section.
- (2) The overview and scrutiny committee may publish the report or recommendations.
- (3) The overview and scrutiny committee must by notice in writing require the authority or executive—
 - (a) to consider the report or recommendations,
 - (b) to respond to the overview and scrutiny committee indicating what (if any) action the authority propose, or the executive proposes, to take,
 - (c) if the overview and scrutiny committee has published the report or recommendations under subsection (2), to publish the response,
 - (d) if the overview and scrutiny committee provided a copy of the report or recommendations to a member of the authority under section 21A(8), to provide the member with a copy of the response,and to do so within two months beginning with the date on which the authority or executive received the report or recommendations or (if later) the notice.
- (4) It is the duty of an authority or executive to which a notice is given under subsection (3) to comply with the requirements specified in the notice.
- (5) Subsections (2) and (4) are subject to section 21D and to any provision made under section 22(12A).
- (6) In this section—
 - (a) references to an overview and scrutiny committee include references to a sub-committee of such a committee; and
 - (b) references to “the authority” or “the executive”, in relation to an overview and scrutiny committee, or a sub-committee of such a committee, are to the authority by which the overview and scrutiny committee is established or to the executive of that authority.

Textual Amendments

F51 Ss. 21B-21D inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 122(1)**, 245(5); S.I. 2008/3110, art. 4(d)

Modifications etc. (not altering text)

C65 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009](#) (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

21C Reports and recommendations of overview and scrutiny committees: duties of certain partner authorities **E+W**

- (1) This section applies where—

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- (a) a relevant committee makes a report or recommendations to the authority or the executive, otherwise than—
 - (i) by virtue of subsection (1)(b) of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or
 - (ii) by virtue of subsection (3)(a) of that section, and
 - (b) the report or any of the recommendations relates to a local improvement target which—
 - (i) relates to a relevant partner authority, and
 - (ii) is specified in a local area agreement of the authority.
- (2) The relevant committee may by notice in writing to the relevant partner authority require the relevant partner authority to have regard to the report or recommendation in question in exercising their functions.
- (3) A notice under subsection (2) must be accompanied by a copy of the report or recommendations.
- (4) It is the duty of a relevant partner authority to which a notice is given under subsection (2) to comply with the requirement specified in the notice.
- (5) Subsection (2) does not apply if—
- (a) the relevant partner authority is a health service body, and
 - (b) by virtue of section 244 of the National Health Service Act 2006, the report was, or the recommendations were, made to the health service body (as well as to the authority or the executive).
- (6) In subsection (5), “health service body” means—
- (a) a National Health Service trust,
 - (b) an NHS foundation trust, or
 - (c) a Primary Care Trust.
- (7) Subsections (2) and (3) are subject to section 21D.
- (8) In this section—
- “the authority”, in relation to a relevant committee, means—
 - (a) in the case of an overview and scrutiny committee, the local authority by which it is established, and
 - (b) in the case of a sub-committee of an overview and scrutiny committee, the local authority by which the overview and scrutiny committee is established,
 - “the executive”, in relation to a relevant committee, means the executive of the authority,
 - “local improvement target” and “local area agreement” have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007 (local area agreements),
 - “relevant committee” means—
 - (a) any overview and scrutiny committee of—
 - (i) a county council in England,
 - (ii) a district council in England, other than a council for a district in a county for which there is a county council, or
 - (iii) a London borough council, or

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(b) a sub-committee of an overview and scrutiny committee within paragraph (a), and

“relevant partner authority”, in relation to a relevant committee, means any person who is a partner authority in relation to the authority for the purposes of Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, other than—

- (a) a police authority, or
- (b) a chief officer of police;

and references to a target relating to a relevant partner authority are to be construed in accordance with section 105(3) of the Local Government and Public Involvement in Health Act 2007.

Textual Amendments

F51 Ss. 21B-21D inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 122(1)**, 245(5); S.I. 2008/3110, art. 4(d)

Modifications etc. (not altering text)

C65 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), **ss. 32(1)**, 148(2)(a)(ii))

21D Publication etc of reports, recommendations and responses: confidential and exempt information **E+W**

- (1) This section applies to—
 - (a) the publication under section 21B of any document comprising—
 - (i) a report or recommendations of an overview and scrutiny committee, or
 - (ii) a response of a local authority to any such report or recommendations, and
 - (b) the provision of a copy of such a document—
 - (i) to a member of a local authority under section 21A(8) or section 21B, or
 - (ii) to a relevant partner authority under section 21C,by an overview and scrutiny committee or a local authority.
- (2) The overview and scrutiny committee or the local authority, in publishing the document or providing a copy of the document to a relevant partner authority—
 - (a) must exclude any confidential information, and
 - (b) may exclude any relevant exempt information.
- (3) The overview and scrutiny committee or the local authority, in providing a copy of the document to a member of the local authority, may exclude any confidential information or relevant exempt information.
- (4) Where information is excluded under subsection (2) or (3), the overview and scrutiny committee or the local authority, in publishing, or providing a copy of, the document—
 - (a) may replace so much of the document as discloses the information with a summary which does not disclose that information, and

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- (b) must do so if, in consequence of excluding the information, the document published, or copy provided, would be misleading or not reasonably comprehensible.
- (5) If by virtue of subsection (2), (3) or (4) an overview and scrutiny committee, in publishing or providing a copy of a report or recommendations—
- (a) excludes information, or
 - (b) replaces part of the report or recommendations with a summary,
- it is nevertheless to be taken for the purposes of section 21B(3)(c) or (d) to have published or provided a copy of the report or recommendations.
- (6) In this section—
- “confidential information” has the meaning given by section 100A(3) of the Local Government Act 1972 (admission to meetings of principal councils),
- “exempt information” has the meaning given by section 100I of that Act, and, in relation to—
- (a) any report or recommendations of an overview and scrutiny committee which has functions under section 21(2)(f), or
 - (b) any response to such a report or recommendations,
- also includes information which is exempt information under section 246 of the National Health Service Act 2006,
- “relevant exempt information” means—
- (a) in relation to a report or recommendations of an overview and scrutiny committee, exempt information of a description specified in a resolution of the overview and scrutiny committee under section 100A(4) of the Local Government Act 1972 which applied to the proceedings, or part of the proceedings, at any meeting of the overview and scrutiny committee at which the report was, or recommendations were, considered, and
 - (b) in relation to a response of the authority, exempt information of a description specified in such a resolution of the authority which applied to the proceedings, or part of the proceedings, at any meeting of the authority at which the report or response was, or recommendations were, considered, and
- “relevant partner authority”, in relation to an overview and scrutiny committee which is a relevant committee within the meaning of section 21C, has the same meaning as in that section.
- (7) In this section, references to an overview and scrutiny committee include references to a sub-committee of such a committee.]

Textual Amendments

F51 Ss. 21B-21D inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 122(1)**, 245(5); S.I. 2008/3110, art. 4(d)

Modifications etc. (not altering text)

C65 Ss. 21A-21D: power to apply conferred by 2007 c. 28, s. 123(5)(b)(ii) (as substituted (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009](#) (c. 20), **ss. 32(1)**, 148(2)(a)(ii))

C66 S. 21D applied (E.) (12.8.2009) by [The Local Authorities \(Overview and Scrutiny Committees\) \(England\) Regulations 2009](#) (S.I. 2009/1919), regs. 1(1), **8** (with reg. 12)

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[^{F52}**21E Overview and scrutiny committees of certain district councils: functions with respect to partner authorities** **E+W**]

- (1) This section applies to any district council which is a partner authority in relation to a county council (“the related county council”).
- (2) The Secretary of State may by regulations make provision under which a district council to which this section applies may confer on their overview and scrutiny committee, or any of their overview and scrutiny committees, power to make reports and recommendations to the related county council, or that council's executive, which relate to any local improvement target which—
 - (a) relates to a relevant partner authority, and
 - (b) is specified in a local area agreement of the county council.
- (3) Regulations under subsection (2) may make provision applying or reproducing any provision of section 21B, 21C or 21D (with or without modifications).
- (4) For the purposes of this section—
 - (a) “relevant partner authority”, in relation to a district council, means—
 - (i) the related county council, or
 - (ii) any other authority which are a partner authority in relation to that county council, other than—
 - (a) a police authority, or
 - (b) a chief officer of police,
 - (b) “local area agreement”, “local improvement target” and “partner authority” have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007, and
 - (c) section 105(2) or (3) of that Act applies for the purpose of determining whether a local improvement target relates to a relevant partner authority.]

Textual Amendments

F52 S. 21E inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 124, 245(5); S.I. 2008/3110, art. 4(f)

[^{F53}**21F Overview and scrutiny committees: flood risk management** **E+W**]

- (1) This section applies to a local authority which is a lead local flood authority for an area in England.
- (2) The arrangements required under section 21(2) include arrangements to review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area.
- (3) A risk management authority must comply with a request made by an overview and scrutiny committee, in the course of arrangements under subsection (2), for—
 - (a) information;
 - (b) a response to a report.
- (4) The Secretary of State may make regulations about the duty under subsection (3) (which may, in particular, include provision about (i) procedure, (ii) notices, (iii)

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- exemptions, (iv) requirement to attend to give information orally, (v) the nature of information and responses that may be required, and (vi) publication).
- (5) A risk management authority must have regard to reports and recommendations of an overview and scrutiny committee in the course of arrangements under subsection (2).
 - (6) Regulations under section 123 of the Local Government and Public Involvement in Health Act 2007 may make provision about the application of this section in relation to joint overview and scrutiny committees.
 - (7) Expressions used in this section have the same meaning as in Part 1 of the Flood and Water Management Act 2010.]

Textual Amendments

F53 S. 21F inserted (1.10.2010 for specified purposes, 6.4.2011 in so far as not already in force) by [Flood and Water Management Act 2010 \(c. 29\)](#), s. 49(3), [Sch. 2 para. 54](#) (with s. 49(1)(6)); S.I. 2010/2169, art. 4, Sch.; S.I. 2011/694, art. 4(1)(j)

22 Access to information etc. **E+W**

- (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.
- (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,

Status: Point in time view as at 03/12/2011.

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- (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.
- (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 ^{M12}Local Government Act 1972.

[^{F54}(12A) The Secretary of State may by regulations make provision, in relation to—

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- (a) the publication by executives of local authorities in England under section 21B, or under any provision of regulations under section 21E which applies or reproduces (with or without modifications) any provision of section 21B, of responses to reports or recommendations of overview and scrutiny committees and sub-committees of such committees, or
- (b) the provision by such executives under that section of copies of such responses,

which applies or reproduces (with or without modifications) any provisions of section 21D.]

(13) In this section—

“joint committee” means a joint committee falling within section 101(5)(a) of the ^{M13}Local Government Act 1972,

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

Textual Amendments

F54 S. 22(12A) inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 122\(2\)](#), 245(5); S.I. 2008/3110, [art. 4\(d\)](#)

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

M12 1972 c. 70.

M13 1972 c. 70.

^{F55}22A Overview and scrutiny committees of certain authorities in England: provision of information etc by certain partner authorities **E+W**

- (1) The Secretary of State may by regulations make provision, in relation to a relevant committee—
 - (a) as to information which relevant partner authorities must provide to the relevant committee, and
 - (b) as to information which may not be disclosed by a relevant partner authority to the relevant committee.
- (2) In subsection (1), references to information do not include information in respect of which provision may be made in exercise of the power conferred by—
 - (a) section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters), or
 - (b) section 244(2)(d) or (e) of the National Health Service Act 2006 (functions of overview and scrutiny committees).

Status: Point in time view as at 03/12/2011.

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- (3) For the purposes of subsection (1), “relevant committee” and “relevant partner authority” have the meanings given by section 21C.
- (4) The Secretary of State may also by regulations make provision, in relation to a relevant district council committee—
- (a) as to information which associated authorities must provide to the relevant district council committee, and
 - (b) as to information which may not be disclosed by an associated authority to the relevant district council committee.
- (5) In subsection (4), references to information do not include information in respect of which provision may be made in exercise of the power conferred by section 20(5)(c) or (d) of the Police and Justice Act 2006 (guidance and regulations regarding crime and disorder matters).
- (6) For the purposes of subsection (4)—
- “relevant district council committee” means—
- (a) an overview and scrutiny committee of a district council which is not a responsible local authority (“the district council”), or
 - (b) a sub-committee of such a committee;
- “associated authority”, in relation to a relevant district council committee, means—
- (a) the county council which is the responsible local authority in relation to the district council, or
 - (b) any person (other than the district council) which is a partner authority in relation to that county council, other than—
 - (i) a police authority, or
 - (ii) a chief officer of police;
- and for this purpose, “responsible local authority” and “partner authority” have the same meanings as in Chapter 1 of Part 5 of the Local Government and Public Involvement in Health Act 2007.
- (7) Regulations under this section may make different provision in relation to different persons or committees or descriptions of person or committee.
- (8) The power conferred by subsection (7) does not affect the power conferred by section 105(2)(b).]

Textual Amendments

F55 S. 22A inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. [121\(1\)](#), [245\(5\)](#); S.I. 2008/3110, art. 4(c)

23 Further provision. **E+W**

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

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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. **E+W**

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 ^{M14}Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

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

M14 1989 c. 42.

Procedure with respect to operation of executive arrangements

25 Proposals. **E+W**

- (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.

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- (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.

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. **E+W**

- (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, [^{F56}or]
 - (b) [^{F57}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.

Textual Amendments

F56 Word in s. 26(2)(a) inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 34\(4\)\(a\), 178\(2\)](#)

F57 S. 26(2)(b) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 34\(4\)\(b\), 178\(2\)](#), [Sch. 4 Pt. B](#)

Status: Point in time view as at 03/12/2011.

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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. **E+W**

- (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.
- (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.

Status: Point in time view as at 03/12/2011.

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- (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)

- C67** 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)**
- C68** 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)**
- C69** 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)**
- C70** S. 27(13) applied (with modifications) (W.) (23.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), regs. 1(2), **13(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 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. E+W

- (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).

Status: Point in time view as at 03/12/2011.

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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. **E+W**

- (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—
- 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
 - publish in one or more newspapers circulating in their area a notice which—
 - states that they have resolved to operate the arrangements,
 - states the date on which they are to begin operating the arrangements,
 - describes the main features of the arrangements,
 - 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
 - specifies the address of their principal office.
- (3) [^{F58}A local authority [^{F59}in Wales] 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.]

Textual Amendments

- F58** S. 29(3) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011](#) (nawm 4), ss. 36(1)(a), 178(2), [Sch. 4 Pt. B](#) (with s. 36(5)-(8))
- F59** Words in s. 29(3) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 245(2), [Sch. 3 para. 23](#)

Modifications etc. (not altering text)

- C71** S. 29(1) applied (E.) (12.4.2001) by [S.I. 2001/1003](#), [reg. 10\(1\)](#)
- C72** S. 29(1) applied (W.) (25.11.2002) by [S.I. 2002/2880](#), [reg. 7\(1\)](#)
- C73** 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\(8\)\(a\)](#)
- C74** 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\(1\)](#)
- C75** 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\(8\)\(a\)](#)
- C76** S. 29(1) applied (W.) (23.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008](#) (S.I. 2008/1848), regs. 1(2), [13\(8\)\(a\)](#)

Status: Point in time view as at 03/12/2011.

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- C77** 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)**
- C78** 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)**
- C79** S. 29(2) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 71(7)**, 245(2)
- C80** S. 29(2) applied (with modifications) (W.) (23.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), regs. 1(2), **13(8)(b)**
- C81** S. 29(2) applied (with modifications) (W.) (23.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), regs. 1(2), **13(9)(b)**
- C82** 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. **E+W**

[^{F60}(1) The Secretary of State may by regulations make provision for or in connection with the operation by a local authority [^{F61}in Wales] 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).]

Textual Amendments

- F60** S. 30 repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 54(2), 178(2), **Sch. 4 Pt. C**
- F61** Words in s. 30(1) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), **Sch. 3 para. 24**

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**

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Alternative arrangements.

31 Alternative arrangements in case of certain local authorities. E+W

[^{F62}(A1) In this section references to a local authority are references to a local authority in England.]

- (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).

Textual Amendments

F62 S. 31(A1) inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 36(1)(b)**, 178(2) (with s. 36(5)-(8))

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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

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)

32 Alternative arrangements. **E+W**

[^{F63}(A1) In this section references to a local authority are references to a local authority in England.]

- (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.

[^{F64}(3) Regulations under this section may make provision with respect to committees or sub-committees falling within subsection (1)(b), including—

- (a) in the case of regulations made by the Secretary of State, provision which applies or reproduces (with or without modifications)—
 - (i) any provision of sections 21 to 21D or paragraphs 7 and 9 to 11 of Schedule 1,
 - (ii) any provision made under section 21E or 22A,
 - (iii) any provision of section 246 of, or Schedule 17 to, the National Health Service Act 2006, or
 - (iv) any provision made under section 244 of that Act, and
- (b) in the case of regulations made by the Welsh Ministers, provision which applies or reproduces (with or without modifications)—
 - (i) any provision of section 21 or 21A(1)(a) or (b) or (2) or paragraphs 8 to 11 of Schedule 1,
 - (ii) any provision of Schedule 17 to the National Health Service Act 2006,
 - (iii) any provision of section 186 of, or Schedule 11 to, the National Health Service (Wales) Act 2006, or

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

- (iv) any provision made under section 184 of 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

- F63** S. 32(A1) inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 36(1)(c), 178(2)** (with s. 36(5)-(8))
- F64** S. 32(3) substituted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 127(2), 245(5)**; [S.I. 2008/3110](#), art. 4(g)

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**

33 Operation of alternative arrangements. **E+W**

[^{F65}[^{F66}(A1) In this section references to a local authority are references to a local authority in Wales.]

- (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.

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

- (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).]

Textual Amendments

- F65** S. 33 repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 36(1)(d), 178(2), **Sch. 4 Pt. B** (with s. 36(5)-(8))
- F66** S. 33(A1) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), **Sch. 3 para. 25**

Modifications etc. (not altering text)

- C83** S. 33(2) applied (W.) (25.11.2002) by [S.I. 2002/2880](#), **reg. 7(2)**
- C84** S. 33(2) applied (E.) (12.4.2001) by [S.I. 2001/1003](#), **reg. 10(2)**
- C85** 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)**
- C86** 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)**
- C87** S. 33(2) applied (W.) (23.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), regs. 1(2), **13(9)(a)**

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)

^{F67}Changing governance arrangements: general provisions

Textual Amendments

- F67** Ss. 33A-33O and cross-headings inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 64, 245(2)**

^{F68}**33ZA**

Wales: changing governance arrangements **E+W**

For provision about changing the governance arrangements of local authorities in Wales, see Part 4 of the Local Government (Wales) Measure 2011.]

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

Textual Amendments

F68 S. 33ZA inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 54(3)**, 178(2)

33A Executive arrangements: different form of executive **E+W**

A local authority in England which is operating executive arrangements may—

- (a) vary the arrangements so that they provide for a different form of executive, and
- (b) if it makes such a variation, vary the arrangements in such other respects (if any) as it considers appropriate.

33B Executive arrangements: other variation of arrangements **E+W**

A local authority in England which is operating executive arrangements may vary the arrangements so that they—

- (a) differ from the existing arrangements in any respect, but
- (b) still provide for the same form of executive.

33C Alternative arrangements: move to executive arrangements **E+W**

A local authority in England which is operating alternative arrangements may—

- (a) cease to operate alternative arrangements, and
- (b) start to operate executive arrangements.

Modifications etc. (not altering text)

C88 S. 33C excluded (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 73(1)**, 245(2)

33D Alternative arrangements: variation of arrangements **E+W**

A local authority in England which is operating alternative arrangements may vary the arrangements so that they differ from the existing arrangements in any respect.

33E Proposals by local authority **E+W**

- (1) This section applies to a local authority which wishes to make a change in governance arrangements.
- (2) The local authority must draw up proposals for the change.
- (3) The proposals must include—
 - (a) a timetable with respect to the implementation of the proposals, and
 - (b) details of any transitional arrangements which are necessary for the implementation of the proposals.
- (4) The following subsections apply if the proposed change is of the kind set out in—
 - (a) section 33A (different form of executive), or

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

- (b) section 33C (move to executive arrangements).
- (5) The proposals may provide for the change in governance arrangements to be subject to approval in a referendum.
- (6) Before drawing up its proposals, the local authority must take reasonable steps to consult the local government electors for, and other interested persons in, the authority's area.
- (7) In drawing up the proposals, the local authority must consider the extent to which the proposals, if implemented, would be likely to assist in securing continuous improvement in the way in which the local authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness.
- (8) After drawing up the proposals, the local authority must—
- (a) secure that copies of a document setting out the proposals are available at their principal office for inspection by members of the public at all reasonable times, and
 - (b) publish in one or more newspapers circulating in its area a notice which—
 - (i) states that the authority has drawn up the proposals,
 - (ii) describes the main features of the proposals,
 - (iii) states that copies of a document setting out the proposals are available at their principal office for inspection by members of the public at such times as may be specified in the notice, and
 - (iv) specifies the address of their principal office.

Modifications etc. (not altering text)

- C89** S. 33E applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 3\(2\)](#)
- C90** S. 33E applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 8\(2\)](#)
- C91** S. 33E extended (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 128, 245(5); S.I. 2008/3110, art. 4(h)

33F Resolution of local authority **E+W**

- (1) A resolution of a local authority is required in order for the authority to make a change in governance arrangements.
- (2) Section 29(2) applies to a resolution under this section as it applied to a resolution to operate executive arrangements.

Modifications etc. (not altering text)

- C92** S. 33F applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 3\(2\)](#)
- C93** S. 33F applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 8\(2\)](#)

Status: Point in time view as at 03/12/2011.

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33G Implementation: new executive or move to executive arrangements **E+W**

- (1) This section applies if a local authority passes a resolution which makes a change in governance arrangements of the kind set out in—
 - (a) section 33A (new form of executive), or
 - (b) section 33C (move to executive arrangements).
- (2) On the third day after the relevant elections, the local authority must—
 - (a) cease operating the old form of executive, or the alternative arrangements, and
 - (b) start operating the form of executive which the change in governance arrangements provides for.
- (3) Subject to subsection (2), the local authority must implement the change in governance arrangements in accordance with the timetable in the proposals.
- (4) In this section “relevant elections” means, if the change in governance arrangements provides for the local authority to operate—
 - (a) a leader and cabinet executive (England): the appropriate elections of councillors;
 - (b) a mayor and cabinet executive: the first election of the mayor.
- (5) For the purposes of subsection (4)(a), the “appropriate elections of councillors” are the elections determined in accordance with whichever of the following paragraphs is applicable—
 - (a) if the local authority is currently operating a mayor and cabinet executive, the “appropriate elections of councillors” are the ordinary elections of councillors of the local authority held on the day on which the next ordinary election of a mayor was expected to be held when the resolution to make the change in governance arrangements was passed;
 - (b) if the local authority—
 - (i) is not currently operating a mayor and cabinet executive, and
 - (ii) is required to pass the resolution to make the change in governance arrangements during a permitted resolution period,
 the “appropriate elections of councillors” are the first ordinary elections of councillors of the local authority to be held after the end of the permitted resolution period in which the resolution is passed;
 - (c) if the local authority—
 - (i) is not currently operating a mayor and cabinet executive, and
 - (ii) is not required to pass the resolution to make the change in governance arrangements during a permitted resolution period,
 the “appropriate elections of councillors” are the first ordinary elections of councillors of the local authority to be held after the resolution is passed.

Modifications etc. (not altering text)

- C94** S. 33G applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\), s. 245\(2\), Sch. 4 para. 3\(2\)](#)
- C95** S. 33G(2) modified (28.11.2008) by [The Local Government \(Structural Changes\) \(Transitional Arrangements\) \(No.2\) Regulations 2008 \(S.I. 2008/2867\), regs. 1\(1\), 29\(3\) \(with reg. 1\(2\)\)](#)
- C96** S. 33G(4) excluded (28.11.2008) by [The Local Government \(Structural Changes\) \(Transitional Arrangements\) \(No.2\) Regulations 2008 \(S.I. 2008/2867\), regs. 1\(1\), 29\(2\)\(a\) \(with reg. 1\(2\)\)](#)

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

C97 S. 33G(5) excluded (28.11.2008) by [The Local Government \(Structural Changes\) \(Transitional Arrangements\) \(No.2\) Regulations 2008 \(S.I. 2008/2867\)](#), regs. 1(1), **29(2)(a)** (with reg. 1(2))

33H Implementation: other change in governance arrangements **E+W**

- (1) This section applies if a local authority passes a resolution which makes a change in governance arrangements of the kind set out in—
 - (a) section 33B (variation of executive arrangements), or
 - (b) section 33D (variation of alternative arrangements).
- (2) The local authority must implement the change in governance arrangements in accordance with the timetable in the proposals.

33I General **E+W**

- (1) Except as provided for in sections 33A to 33D or in regulations under section 34, 35 or 36, a local authority which is operating executive arrangements or alternative arrangements may not vary, or cease to operate, those arrangements.
- (2) In making a change in governance arrangements, the local authority must comply with any directions given by the Secretary of State in connection with the making of such a change.
- (3) Sections 33J to 33N contain further requirements which, in certain cases, apply to proposals or resolutions.]

Modifications etc. (not altering text)

- C98** S. 33I(1) restricted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 73(2), 245(2)**
- C99** S. 33I(2) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), **Sch. 4 para. 3(2)**
- C100** S. 33I(2) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), **Sch. 4 para. 8(2)**

[^{F67}Further requirements for certain changes

33J New form of executive or move to executive: general requirements **E+W**

- (1) This section applies to a change in governance arrangements of the kind set out in—
 - (a) section 33A (new form of executive), or
 - (b) section 33C (move to executive arrangements).
- (2) The proposals must state the extent to which the functions specified in regulations under section 13(3)(b) are to be the responsibility of the executive which will be operated if the proposals are implemented.
- (3) The proposals (particularly any provision about timetables and transitional matters included in accordance with section 33E(3)) must be such as to ensure that the proposed change can take effect (so far as required to) in accordance with section 33G(2).

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

Modifications etc. (not altering text)

- C101** S. 33J applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 3\(2\)](#)
- C102** S. 33J applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 8\(2\)](#)

33K Changes subject to approval in a referendum: additional requirements E+W

- (1) This section applies to a change in governance arrangements if—
 - (a) the change is of the kind set out in section 33A (new form of executive) or section 33C (move to executive arrangements), and
 - (b) the change is subject to approval in a referendum.
- (2) The local authority must hold a referendum on its proposals before taking any steps to implement them.
- (3) The local authority may not pass a resolution which makes the proposed change unless the result of the referendum is to approve the proposals.
- (4) Any such resolution must be passed within the period of 28 days beginning with the day when the referendum is held.
- (5) Any such resolution must be passed at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object.
- (6) If the result of the referendum is not to approve the proposals, the local authority must publish in one or more newspapers circulating in its area a notice which—
 - (a) summarises the proposals,
 - (b) states that the referendum did not approve the proposals,
 - (c) summarises the authority's existing executive arrangements, and
 - (d) states that the authority will be continuing to operate those arrangements.

Modifications etc. (not altering text)

- C103** S. 33K(2) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 10\(2\)](#)
- C104** S. 33K(3) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 10\(2\)](#)
- C105** S. 33K(5) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 10\(2\)](#)
- C106** S. 33K(6) applied (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 4 para. 10\(2\)](#)

33L Change not subject to approval in a referendum: additional requirements E
+W

- (1) This section applies to a change of governance arrangements if—
 - (a) the change is of the kind set out in section 33A (new form of executive) or section 33C (move to executive arrangements), and
 - (b) the change is not subject to approval in a referendum.

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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) Any resolution to make the change in governance arrangements must be passed during a permitted resolution period.
- (3) Subsection (4) applies if—
 - (a) the local authority is operating a mayor and cabinet executive, and
 - (b) the proposed new form of executive is a leader and cabinet executive (England).
- (4) In such a case—
 - (a) the consultation required by section 33E(6) must last for at least 12 weeks; and
 - (b) the local authority's proposals must include statements of the following things—
 - (i) the arguments in favour of making the proposed change;
 - (ii) any arguments against making the proposed change;
 - (iii) the local authority's reasons for wishing to make the proposed change.
- (5) Subsection (6) applies if—
 - (a) the local authority is operating a mayor and cabinet executive, and
 - (b) the proposed new form of executive is a form prescribed in regulations under section 11(5).
- (6) In such a case, the resolution to make the change in governance arrangements must be passed—
 - (a) at a meeting which is specially convened for the purpose of deciding the resolution with notice of the object;
 - (b) by a majority of at least two thirds of members voting on it.
- (7) In subsection (6) the reference to the members of the council includes, in a case where the council are operating a mayor and cabinet executive, the elected mayor of the council.

Modifications etc. (not altering text)

C107 S. 33L modified (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), s. 73(3)(4), 245(2)

33M Cases in which change subject to approval in referendum **E+W**

- (1) For the purposes of sections 33K and 33L a change in governance arrangements is subject to approval in a referendum in either of the following cases.
- (2) The first case is where the proposals for implementing the local authority's current form of executive were themselves approved in a referendum.
- (3) The second case is where the local authority's proposals under section 33E provide for the change in governance arrangements to be subject to approval in a referendum.

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

33N Variation of mayoral executive **E+W**

- (1) This section applies to a change in governance arrangements of the kind set out in section 33B (variation of executive arrangements) if the local authority is operating a mayor and cabinet executive.
- (2) The local authority may not make any proposals for the change in governance arrangements unless the elected mayor has given written consent to the proposed change.]

[^{F67}Miscellaneous

33O Interpretation **E+W**

- (1) This section applies for the purposes of sections 33A to 33N.
- (2) References to a change in governance arrangements are references to any change of a kind set out in sections 33A to 33D.
- (3) References to a different form of executive are references to any of the following kinds of executive that a local authority is not operating—
 - (a) a leader and cabinet executive (England);
 - (b) a mayor and cabinet executive;
 - (c) a form of executive prescribed under section 11(5).
- (4) In sections 33A to 33N—

“permitted resolution period”, in relation to a local authority, means a period specified in the second column of the following table in relation to that type of authority;

“proposals” means proposals under section 33E;

“proposed change” means the change in governance arrangements which is proposed in proposals.
- (5) This is the table referred to in the definition of “permitted resolution period”—

<i>Type of local authority</i>	<i>Permitted resolution periods</i>
Metropolitan district	(1) The period ending with 31 December 2009. (2) The period in 2013, or in any fourth year afterwards, which— <ol style="list-style-type: none"> (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.
County	(1) The period ending with 31 December 2008. (2) The period in 2012, or in any fourth year afterwards, which— <ol style="list-style-type: none"> (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

London borough	(1) The period ending with 31 December 2009. (2) The period in 2013, or in any fourth year afterwards, which— (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.
Non-metropolitan district	(1) The period ending with 31 December 2010. (2) The period in 2014, or in any fourth year afterwards, which— (a) starts with the day after that council's annual meeting, and (b) ends with 31 December.

- (6) The Secretary of State may by order provide that a permitted resolution period is to end later than the last day of that period specified in the table.]

Referendums

34 Referendum following petition. E+W

- (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 [^{F69}operate a relevant form of executive].

[^{F70}(1A) In this section “relevant form of executive” means—

- (a) in relation to England, an executive which takes such form permitted by or under section 11 as may be specified in the regulations;
 - (b) in relation to Wales, 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,

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- (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, [F7129 or 33][F71 or 29][F72 or of any of sections 33A to 33O].
- (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 (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).

Textual Amendments

- F69** Words in s. 34(1) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 65\(2\)](#), 245(2)
- F70** S. 34(1A) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 65\(3\)](#), 245(2)
- F71** Words in s. 34(3) substituted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 36\(1\)\(e\)](#), 178(2) (with s. 36(5)-(8))
- F72** Words in s. 34(3) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 65\(4\)](#), 245(2)

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. **E+W**

- (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

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- (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, [^{F73}29 or 33][^{F73} or 29][^{F74} or of any of sections 33A to 33O].
- (4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

Textual Amendments

F73 Words in s. 35(3) substituted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 36(1)(f)**, 178(2) (with s. 36(5)-(8))

F74 Words in s. 35(3) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 65(5)**, 245(2)

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. **E+W**

- (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.
- (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, [^{F75}29 or 33][^{F75} or 29][^{F76} or of any of sections 33A to 33O].
- (4) Nothing in subsection (2) or (3) affects the generality of the power under subsection (1).

Textual Amendments

F75 Words in s. 36(3) substituted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), **ss. 36(1)(g)**, 178(2) (with s. 36(5)-(8))

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F76 Words in s. 36(3) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 65(6), 245(2)**

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.** E+W

- (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.
- [^{F77}(4) In relation to an authority whose members and co-opted members are subject to mandatory provisions by virtue of section 51(5)(b), the reference in subsection (1) (c) to the authority's code of conduct for the time being under section 51 is to the mandatory provisions which for the time being apply to the members and co-opted members of the authority.]

Textual Amendments

F77 S. 37(4) inserted (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 184(1), 245(5)** (with s. 201); [S.I. 2008/172](#), **art. 2(1)(i)**

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)

Status: Point in time view as at 03/12/2011.

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Guidance

38 Guidance. **E+W**

- (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. **E+W**

- (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.

[^{F78}(5A) A reference in any enactment (whenever passed or made) to—

- (a) a member of a local authority, or
- (b) a councillor of a local authority,

does not include a reference to an elected mayor of the authority.

(5B) But subsection (5A) is subject to—

- (a) regulations made by the Secretary of State under this paragraph which provide that an elected mayor is to be treated as member or councillor of a local authority for the purposes of an enactment (whenever passed or made), and
- (b) any other contrary intention that appears in any enactment (whenever passed or made).

(5C) Sections 2(2A) and 21(1A) of, and paragraph 5C(1) of Schedule 2 to, the Local Government Act 1972 are not to be taken to indicate any contrary intention for the purposes of subsection (5B)(b).]

[^{F79}(6) Elections for the return of an elected mayor of a local authority in England are to take place on the ordinary day of election in each of the relevant election years.

Status: Point in time view as at 03/12/2011.

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- (7) The term of office of an elected mayor of a local authority is to be four years.
- (8) This section is subject to regulations under section 41.]

Textual Amendments

- F78** S. 39(5A)-(5C) substituted for s. 39(5) (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 66\(2\)](#), [245\(2\)](#)
- F79** S. 39(6)-(8) substituted for s. 39(6) (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 66\(3\)](#), [245\(2\)](#)

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)

40 Election as elected mayor and councillor. **E+W**

- (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—
- is a councillor of the authority, and
 - 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. **E+W**

The Secretary of State may by regulations make provision—

- 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,
- as to the intervals between elections for the return of elected mayors or elected executive members,
- as to the term of office of elected mayors or elected executive members, and

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- (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. **E+W**

- (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—
- 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
 - 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.
- (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)

C108 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. **E+W**

- (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—
- 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
 - 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. **E+W**

- (1) The Secretary of State may by regulations make provision as to—
- the conduct of elections for the return of elected mayors or elected executive members, and

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- (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,
 - (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.
- ^{F80}[(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 ^{M15}Representation of the ^{M16}People Act 1983 as applied by or incorporated in regulations under this section.

Textual Amendments

F80 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)

C109 S. 44 functions made exercisable concurrently (18.8.2010) by **The Lord President of the Council Order 2010 (S.I. 2010/1837)**, arts. 1(2), 3

Status: Point in time view as at 03/12/2011.

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C110 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

M15 1983 c. 2.
M16 1983 c. 2.

^{F81}Leader and cabinet executives (England)

Textual Amendments

F81 Ss. 44A-44H and cross-heading inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 67, 245(2)**

44A Election of leader: whole-council elections **E+W**

- (1) This section applies to a local authority if it—
 - (a) is subject to whole-council elections, and
 - (b) is, on the day of a post-election annual meeting, operating a leader and cabinet executive (England).
- (2) The executive leader is to be elected at the post-election annual meeting.
- (3) But if the council fails to elect the executive leader at the post-election annual meeting, an executive leader is to be elected at a subsequent meeting of the council.
- (4) For the purposes of this section and section 44D—
 - (a) a local authority is subject to whole-council elections if, under the scheme for the ordinary elections of its councillors, all of the councillors are elected in each year in which the elections are held;
 - (b) “post-election annual meeting” means the first annual meeting of a local authority to be held after ordinary elections take place.

44B Election of leader: partial-council elections **E+W**

- (1) This section applies to a local authority if it—
 - (a) is subject to partial-council elections, and
 - (b) is, on the day of a relevant annual meeting, operating a leader and cabinet executive (England).
- (2) The executive leader is to be elected at the relevant annual meeting.

Status: Point in time view as at 03/12/2011.

Changes to legislation: Local Government Act 2000, Part II is up to date with all changes known to be in force on or before 01 October 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)

- (3) But if the council fails to elect the executive leader at the relevant annual meeting, the executive leader is to be elected at a subsequent meeting of the council.
- (4) For the purposes of this section and section 44E—
- (a) a local authority is subject to partial-council elections if, under the scheme for the ordinary elections of its councillors, one-half or one-third (or, in either case, as nearly as may be) of the councillors are elected in each year in which the elections are held;
 - (b) “relevant annual meeting” means—
 - (i) the first annual meeting to be held after the local authority starts to operate the leader and cabinet executive (England), or
 - (ii) any subsequent annual meeting held on a day when an executive leader's term of office is to end by virtue of section 44E(3).

44C Removal of leader E+W

- (1) Executive arrangements by a local authority which provide for a leader and cabinet executive (England) may include provision for the council to remove the executive leader by resolution.
- (2) If a council passes a resolution to remove the executive leader, a new executive leader is to be elected—
 - (a) at the meeting at which the leader is removed from office, or
 - (b) at a subsequent meeting.

44D Term of office of leader: whole-council elections E+W

- (1) This section applies to the executive leader of a local authority which—
 - (a) is operating a leader and cabinet executive (England), and
 - (b) is subject to whole-council elections.
- (2) The executive leader's term of office starts on the day of his election as leader.
- (3) The executive leader's term of office ends on the day of the post-election annual meeting which follows his election as leader.
- (4) But if the executive leader is removed from office in accordance with section 44C, his term of office ends on the day of his removal.

44E Term of office of leader: partial-council elections E+W

- (1) This section applies to the executive leader of a local authority which—
 - (a) is operating a leader and cabinet executive (England), and
 - (b) is subject to partial-council elections.
- (2) The executive leader's term of office starts on the day of his election.
- (3) The executive leader's term of office ends on the day when the council holds its first annual meeting after the leader's normal day of retirement as a councillor.
- (4) But that is subject to subsections (5) and (6).

Status: Point in time view as at 03/12/2011.

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- (5) If the executive leader is removed from office in accordance with section 44C, his term of office ends on the day of his removal.
- (6) If the local authority becomes subject to whole-council elections, the executive leader's term of office ends on the day of the annual meeting which follows the first whole-council elections.
- (7) For the purposes of this section an executive leader's normal day of retirement as a councillor is the day when the leader would next be required to retire as a councillor of the council if section 44F were disregarded.

44F Leader to continue to hold office as councillor **E+W**

- (1) The executive leader of a leader and cabinet executive (England) remains a member of the council during his term of office as leader.
- (2) Accordingly, any enactment which provides for his earlier retirement as a councillor does not apply.
- (3) This section does not affect anything by which the executive leader may cease to be a councillor otherwise than by retirement (including disqualification or resignation).

44G No other means of electing or removing leader **E+W**

- (1) This section applies to a local authority which operate a leader and cabinet executive (England).
- (2) An executive leader may not be elected except in accordance with section 44A, 44B or 44C or regulations under section 44H.
- (3) An executive leader may not be removed from office except in accordance with section 44C or regulations under section 44H.

44H Regulations **E+W**

- (1) The Secretary of State may by regulations make provision—
 - (a) as to the dates on which and years in which executive leaders of leader and cabinet executives (England) are to be elected by local authorities,
 - (b) as to the intervals between elections of executive leaders of leader and cabinet executives (England),
 - (c) as to the term of office of an executive leader of a leader and cabinet executive (England), and
 - (d) as to the filling of vacancies in the office of executive leader of a leader and cabinet executive (England).
- (2) Sections 44A to 44E are subject to regulations under this section.]

Provisions with respect to referendums

45 Provisions with respect to referendums. **E+W**

- [^{F82}(1) A local authority—

Status: Point in time view as at 03/12/2011.

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- (a) in England may not hold more than one referendum in any period of ten years;
 - (b) in Wales may not hold more than one referendum in any period of five years.]
- (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.
- ^{F83}[(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—

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- (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
 - (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) [^{F84}to (8C)]“referendum” means a referendum held under section 27 [^{F85}or 33K] or by virtue of regulations or an order made under any provision of this Part [^{F86}or under section 40 of the Local Government (Wales) Measure 2011].

Textual Amendments

- F82** S. 45(1) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 69\(2\)](#), 245(2) (with s. 69(4))
- F83** 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)
- F84** 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)
- F85** Words in s. 45(9) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 69\(3\)](#), 245(2) (with s. 69(4))
- F86** Words in s. 45(9) inserted (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 54\(4\)](#), 178(2)

Modifications etc. (not altering text)

- C111** S. 45 functions made exercisable concurrently (18.8.2010) by [The Lord President of the Council Order 2010 \(S.I. 2010/1837\)](#), [arts. 1\(2\)](#), 3
- C112** S. 45 applied (with modifications) (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [s. 178\(2\)](#), [Sch. 1 para. 4\(3\)](#)

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

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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.** **E+W**

Schedule 3, which contains amendments to the ^{M17}Local Government Act 1972, has effect.

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

M17 1972 c. 70.

Power to make further provision

47 **Power to make incidental, consequential provision etc.** **E+W**

- (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.
- ^{F87}(4) The provision which may be made under subsection (1) includes provision relating to changes in local authority governance arrangements (including changes of the kinds set out in sections 33A to 33D).
- (5) That includes—
 - (a) provision relating to the old governance arrangements, the new governance arrangements, or both kinds of governance arrangements,
 - (b) provision as to the dates on which and years in which relevant elections may or must be held,
 - (c) provision as to the intervals between relevant elections, and
 - (d) provision as to the term of office of any member of any form of executive.
- (6) In subsection (5) “relevant election” means—
 - (a) an election for the return of an elected mayor;

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- (b) the election by a local authority of the executive leader of a leader and cabinet executive (England).
- (7) Nothing in subsection (2), (3), (4) or (5) affects the generality of the power in subsection (1).]

Textual Amendments

F87 S. 47(4)-(7) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 68\(2\), 245\(2\)](#)

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. **E+W**

- (1) In this Part, unless the context otherwise requires—
- “alternative arrangements” has the meaning given by section 32(1),
 - [^{F88}“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 ^{M18}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 ^{M19}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 [^{F89}section 11(2A)(a) or (3)(a)],
 - “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 ^{M20}Local Government Act 1972,
 - [^{F90}“ordinary day of election”, in relation to a local authority, means the day of ordinary elections of councillors of the authority,]
 - “overview and scrutiny committee” has the meaning given by section 21(1),

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“the political balance requirements” means the provisions made by or under sections 15 to 17 of, and Schedule 1 to, the ^{M21}Local Government and Housing Act 1989,

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

[^{F91}(1A) In this Part “relevant election years”, in relation to a local authority, means the years specified in the second column of the following table in relation to that type of authority.

<i>Type of local authority</i>	<i>Relevant election years</i>
Metropolitan district	2010 and every fourth year afterwards
County	2009 and every fourth year afterwards
London borough	2010 and every fourth year afterwards
Non-metropolitan district	2011 and every fourth year afterwards]

- (2) Any reference in this Part to the chairman of a local authority—
- is a reference to that person whether or not he is entitled to another style, and
 - in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the ^{M22}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—
- is a reference to that person whether or not he is entitled to another style, and
 - in the case of a London borough, is a reference to the person who (disregarding paragraphs 5B to 5I of Schedule 2 to the ^{M23}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 ^{M24}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—
- may be varied or revoked by subsequent directions given by him under that provision, and
 - may make different provision for different cases, local authorities or descriptions of local authority.

Textual Amendments

- F88** Words in s. 48(1) repealed (10.7.2011) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 34(5), 178(2), **Sch. 4 Pt. B**
- F89** Words in s. 48(1) substituted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 70(2)**, 245(2)
- F90** Words in s. 48(1) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 70(3)**, 245(2)

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F91 S. 48(1A) inserted (30.12.2007) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), [ss. 70\(4\)](#), [245\(2\)](#)

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

M18 1983 c. 2.

M19 1978 c. 30.

M20 1972 c. 70.

M21 1989 c. 42.

M22 1972 c. 70.

M23 1972 c. 70.

M24 1972 c. 70.

[^{F92} **48A Functions of the Lord President of the Council** **E+W**

See the Lord President of the Council Order 2010 by virtue of which functions of the Secretary of State under sections 44 and 45 are exercisable concurrently with the Lord President of the Council.]

Textual Amendments

F92 S. 48A inserted (18.8.2010) by [The Lord President of the Council Order 2010](#) (S.I. 2010/1837), [art. 1\(2\)](#), [Sch. para. 8](#)

Status:

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