

2001 No. 1003

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (England) Regulations 2001

Made - - - - - *15th March 2001*

Laid before Parliament *22nd March 2001*

Coming into force - - *12th April 2001*

The Secretary of State for the Environment, Transport and the Regions, in exercise of the powers conferred upon him by sections 30, 33 and 105(2) of the Local Government Act 2000^(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations—

Citation, commencement, extent and interpretation

1.—(1) These Regulations may be cited as the Local Authorities (Changing Executive Arrangements and Alternative Arrangements) (England) Regulations 2001 and shall come into force on 12th April 2001.

(2) These Regulations extend to England only and, accordingly, references in these Regulations to a local authority are references to a local authority in England^(b).

(3) In these Regulations, “the 2000 Act” means the Local Government Act 2000.

Proposals

2.—(1) A local authority which is operating executive arrangements (“existing executive arrangements”), by virtue of a resolution under section 29(1) of the 2000 Act (operation of, and publicity for, executive arrangements), whether or not as applied by regulation 10(1), may draw up proposals for the operation of executive arrangements (“different executive arrangements”) which differ from the existing executive arrangements in any respect.

(2) A local authority which—

(a) is a local authority to which section 31 of the 2000 Act (alternative arrangements in case of certain local authorities) applies; and

(b) is operating existing executive arrangements,

may draw up proposals for the operation of alternative arrangements in place of the existing executive arrangements.

(3) A local authority which is operating alternative arrangements (“existing alternative arrangements”), by virtue of a resolution under section 33(2) of the 2000 Act (operation of alternative arrangements), whether or not as applied by regulation 10(2), may draw up proposals for the operation of alternative arrangements (“different alternative arrangements”) which differ from the existing alternative arrangements in any respect.

(a) 2000 c. 22.

(b) For the application of sections 30, 33 and 105 of the Local Government Act 2000 to Wales, *see* section 106 of that Act. *See* section 48(1) of the 2000 Act for the definition of “local authority”.

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

Drawing up proposals

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

(2) Proposals under regulation 2(1) which involve an executive which takes a different form, under regulation 2(2) or under regulation 2(4) must include—

- (a) such details of the proposed 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.

(3) In drawing up proposals under regulation 2(1) which involve an executive which takes a different form or under regulation 2(4), a local authority must decide—

- (a) which form the executive is to take; and
- (b) the extent to which the functions specified in regulations under section 13(3)(b) of the 2000 Act (functions which are the responsibility of an executive) are to be the responsibility of the executive.

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

Directions

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

Elected mayor's consent to proposals

5.—(1) Subject to paragraph (2), if—

- (a) a local authority draws up proposals under regulation 2(1) which do not involve an executive which takes a different form; and
- (b) under existing executive arrangements the executive takes the form specified in section 11(2) or (4) of the 2000 Act (mayor and cabinet executive or mayor and council manager executive),

the local authority may not implement the proposals without the written consent of the elected mayor under the existing executive arrangements.

(2) The consent of the elected mayor is not required under paragraph (1) if the arrangements which are the subject of the proposals mentioned in that paragraph differ from the existing executive arrangements only in respect of the operation and functions of—

- (a) an overview and scrutiny committee; or
- (b) a sub-committee of such a committee.

Requirement to hold a referendum

6.—(1) Where a local authority draws up proposals under—

- (a) regulation 2(1) which involve an executive which takes a different form and—
 - (i) the form of executive under the existing executive arrangements; or
 - (ii) the proposed form of executive,is a form of executive for which a referendum is required^(a);
- (b) regulation 2(2) and the form of executive under the existing executive arrangements is a form of executive for which a referendum is required; or

(a) See section 26(2) of the 2000 Act.

- (c) regulation 2(4) and the proposed form of executive is a form of executive for which a referendum is required,

the authority must hold a referendum on its proposals before taking any steps to implement them.

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

(3) A local authority may not hold such a referendum before the end of the period of two months beginning with the date on which a copy of the proposals, statement and outline fall-back proposals are sent to the Secretary of State in accordance with regulation 7.

Information to be sent to the Secretary of State

7.—(1) Where proposals are drawn up under regulation 2(1) which involve an executive which takes a different form, under regulation 2(2) or under regulation 2(4), the local authority must send to the Secretary of State—

- (a) a copy of the proposals; and
- (b) a statement which describes—
 - (i) the steps which the authority took to consult the local government electors for, and other interested persons in, the authority’s area; and
 - (ii) the outcome of that consultation and the extent to which that outcome is reflected in the proposals.

(2) Where the local authority is required to hold a referendum by virtue of regulation 6, the local authority must send a copy of its outline fall-back proposals, drawn up under regulation 6(2), to the Secretary of State with the copy of the proposals and the statement referred to in paragraph (1).

(3) Where proposals are drawn up under regulation 2(2), the statement referred to in paragraph (1)(b) must also specify—

- (a) the reasons why the local authority considers that its proposals will be more suitable for circumstances in that authority and its area than any form of executive arrangements specified in or under section 11 of the 2000 Act (local authority executives); and
- (b) the reasons why the authority considers that its proposals would be likely, if implemented, to ensure that decisions of the authority are taken in an efficient, transparent and accountable way.

Proposals not requiring a referendum

8. Where a local authority—

- (a) draws up proposals under regulation 2(1) which involve an executive which takes a different form, under regulation 2(2) or under regulation 2(4); and
- (b) a referendum is not required for those proposals,

the authority must implement the proposals in accordance with the timetable included in the proposals.

Proposals requiring a referendum

9.—(1) If the result of a referendum held by virtue of regulation 6 is to reject the proposals that were the subject of the referendum, the local authority—

- (a) must not implement those proposals; and
- (b) where the local authority is operating—
 - (i) existing executive arrangements (as summarised in its outline fall-back proposals), it must continue to operate those existing arrangements unless and until it is authorised or required to operate different executive arrangements or authorised to operate alternative arrangements in place of its existing executive arrangements(a);

(a) See, in particular, sections 30 and 33 to 36 of the 2000 Act.

- (ii) existing alternative arrangements (as summarised in its outline fall-back proposals), it must continue to operate those existing arrangements unless and until it is authorised to operate different alternative arrangements or authorised or required to operate executive arrangements in place of its existing alternative arrangements^(a).

(2) Subject to paragraph (3), if the result of a referendum held by virtue of regulation 6 is to approve the proposals that were the subject of the referendum, the local authority must implement those proposals in accordance with the timetable included in the proposals.

(3) Where—

- (a) a local authority draws up proposals under regulation 2(1) which involve an executive which takes a different form or under regulation 2(2); and
- (b) under existing executive arrangements the executive takes a form specified in section 11(2) or (4) of the 2000 Act (mayor and cabinet executive or mayor and council manager executive),

paragraph (4) shall apply.

(4) Where this paragraph applies, the local authority must not implement the proposals until—

- (a) the term of office of the elected mayor under the existing executive arrangements ends; or
- (b) the elected mayor otherwise ceases to hold the office of elected mayor,

whichever occurs sooner.

Requirements for a resolution

10.—(1) Subsection (1) of section 29 (operation of, and publicity for, executive arrangements) shall apply for the purpose of operating different executive arrangements as it applies for the purpose of operating executive arrangements originally or in place of existing alternative arrangements.

(2) Subsection (2) of section 33 (operation of alternative arrangements) shall apply for the purpose of operating different alternative arrangements as it applies for the purpose of operating alternative arrangements originally or in place of existing executive arrangements.

Publicity for arrangements

11.—(1) Where a local authority has resolved to operate—

- (a) different executive arrangements; or
- (b) different alternative arrangements,

as soon as practicable after passing such a resolution, the local authority must secure that copies of a document setting out the provisions of the different arrangements are available at its principal office for inspection by members of the public at all reasonable hours.

(2) Where a local authority has resolved to operate different executive arrangements which involve an executive which takes a different form, as soon as practicable after passing such a resolution, the local authority must publish in one or more newspapers circulating in its area a notice which complies with the provisions of paragraph (3).

(3) The notice referred to in paragraph (2) must—

- (a) state that the local authority has resolved to operate the arrangements;
- (b) state the date on which the local authority is to begin operating those arrangements;
- (c) describe the main features of those arrangements;
- (d) state that copies of a document setting out the provisions of those arrangements are available at the local authority's principal office for inspection by members of the public at such times as may be specified in the notice; and
- (e) specify the address of the local authority's principal office.

(a) See, in particular, sections 33 to 36 of the 2000 Act.

(4) Where a referendum, required by virtue of regulation 6(1), has rejected the local authority's proposals, as soon as practicable after the holding of the referendum, the local authority must publish in one or more newspapers circulating in its area a notice which—

- (a) summarises the local authority's proposals which were the subject of the referendum;
- (b) states that a referendum on the local authority's proposals rejected those proposals;
- (c) sets out the local authority's outline fall-back proposals; and
- (d) states that the existing executive arrangements or existing alternative arrangements (as summarised in the local authority's outline fall-back proposals), as the case may be, will continue to operate.

Signed by authority of the Secretary of State
for the Environment, Transport and the Regions

Beverley Hughes
Parliamentary Under Secretary of State,
Department of the Environment,
Transport and the Regions

15th March 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part II of the Local Government Act 2000 provides for local authorities to draw up proposals for the operation of executive arrangements (under which certain functions of the authority are the responsibility of an executive) or, in the case of certain authorities, for the operation of alternative arrangements. In the case of executive arrangements, the local authority's executive must take one of the forms specified in section 11 of that Act.

These Regulations extend to England only and references to a local authority are references to a county council in England, a district council or a London borough council (**regulation 1**).

These Regulations enable a local authority, which is operating executive arrangements, to draw up proposals to change those executive arrangements or, in the case of certain local authorities, to replace them with alternative arrangements. The Regulations also enable a local authority, which is operating alternative arrangements, to draw up proposals to change those alternative arrangements or to replace them with executive arrangements (**regulation 2**).

Regulation 3 makes provision, in relation to certain proposals, for consultation and for what must be included in the proposals. There is a requirement, in relation to all proposals, for the local authority to consider how the proposals may assist in securing continuous improvement in the way in which its functions are exercised, having regard to economy, efficiency and effectiveness.

A local authority must comply with directions given by the Secretary of State for the purposes of these Regulations (**regulation 4**).

Where a local authority proposes to change its executive arrangements, but not to have a different form of executive, if the authority has an elected mayor, his consent is required. This does not apply if the proposals only involve changing the operation or functions of an overview and scrutiny committee or a sub-committee of such a committee (**regulation 5**).

Regulation 6 sets out when a referendum is required before a local authority can take steps to implement its proposals.

Regulation 7 provides for certain information to be sent to the Secretary of State.

Regulation 8 provides for certain proposals, which do not require a referendum, to be implemented in accordance with the timetable included in the proposals.

Where a referendum rejects proposals, the local authority must continue to operate its existing arrangements unless and until it is authorised or required to operate other arrangements. Where a referendum approves proposals, the local authority must implement them in accordance with the timetable included in the proposals, provided that the proposals are not implemented before the end of the term of office of any elected mayor under existing executive arrangements (**regulation 9**).

Regulation 10 requires a resolution of the local authority in order for that authority to operate different arrangements.

After making a resolution under section 29(1) or 33(2), as applied by regulation 10, copies of a document setting out the provisions of the proposed arrangements must be available for public inspection at the local authority's principal office. For certain proposals, and for proposals that have been rejected by a referendum, specified information must be published in one or more newspapers (**regulation 11**).

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and Alternative Arrangements) (England) Regulations 2001**

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