

2001 No. 3961

LOCAL GOVERNMENT, ENGLAND

The Local Authorities (Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001

Made - - - - - *11th December 2001*
Laid before Parliament *11th December 2001*
Coming into force *1st January 2002*

The Secretary of State for Transport, Local Government and the Regions, in exercise of the powers conferred upon him by sections 20 and 105 of the Local Government Act 2000^(a) hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Local Authorities (Arrangements for the Discharge of Functions) (England) (Amendment) Regulations 2001 and shall come into force on 1st January 2002.

(2) These Regulations apply to local authorities in England only.

Joint exercise of an executive's functions

2. In regulation 11 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000^(b) (joint exercise of an executive's functions)—

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

“(2A) Where—

- (a) arrangements are made under section 101(5) of the 1972 Act at the same time in relation to more than one function;
- (b) at least one of those functions is one which is the responsibility of an executive of a local authority; and
- (c) the arrangements in respect of each function are made on behalf of the same local authorities, regardless of who made the arrangements on behalf of each authority in respect of each function,

the arrangements may provide for one joint committee to discharge all the functions which are the subject of the arrangements on behalf of those authorities.

(2B) Subject to paragraph (2C), where the arrangements provide for the discharge of functions by a joint committee, the joint committee may be a new joint committee or an existing joint committee.

(2C) Arrangements made on behalf of particular local authorities may only provide for an existing joint committee to discharge functions on behalf of those authorities

^(a) 2000 c.22. For the application of sections 20 and 105 to Wales, see section 106 of the Local Government Act 2000.
^(b) S.I. 2000/2851.

where each function, which the joint committee will discharge or will continue to discharge once the arrangements are made, is to be discharged on behalf of each of those authorities and not on behalf of any other authorities.

(2D) If a function, in relation to which arrangements have been made in accordance with paragraph (2)(b) with a local authority, is a function which becomes the responsibility of an executive of that local authority, the person who by virtue of regulation 3, 4 or 5 above has power to make arrangements under section 101(5) in accordance with this regulation shall take the action specified in paragraph (2E).

(2E) As soon as reasonably practicable after the executive becomes responsible for the function, the person shall—

- (a) decide whether or not the function shall continue to be discharged in relation to the authority in accordance with the existing arrangements; and
- (b) notify in writing all the other parties to the arrangements—
 - (i) that the executive of the local authority has become responsible for the function; and
 - (ii) what decision he has made under sub-paragraph (a).

(2F) Until the person decides whether or not the function shall continue to be discharged in accordance with the existing arrangements in relation to the authority, and notifies in writing that decision to all the other parties to the arrangements, the function shall be so discharged.

(2G) Where the person decides that the function shall continue to be discharged in accordance with the existing arrangements in relation to the authority, the function shall continue to be so discharged.

(2H) Where the person decides that the function shall not continue to be discharged in accordance with the existing arrangements in relation to the authority, the function shall cease to be so discharged in relation to the authority when the person has notified in writing that decision to all the other parties to the arrangements.”;

(b) for paragraph (3), there shall be substituted—

“(3) Where arrangements provide for the discharge of functions by a joint committee and the functions to be discharged by that joint committee, in relation to an authority, are all the responsibility of the authority—

- (a) appointment of the joint committee shall be made, under section 102(1)(b) of the 1972 Act^(a); and
- (b) the number of members to be appointed, their term of office, and the area (if restricted) within which the committee is to exercise its authority, shall be fixed, under section 102(2) of the 1972 Act,

in relation to the authority, by the authority.

(3A) Where arrangements provide for the discharge of functions by a joint committee and the functions to be discharged by that joint committee, in relation to an authority, are all the responsibility of the executive of the authority—

- (a) appointment of the joint committee shall be made, under section 102(1)(b) of the 1972 Act; and
- (b) the number of members to be appointed, their term of office, and the area (if restricted) within which the committee is to exercise its authority, shall be fixed, under section 102(2) of the 1972 Act,

in relation to the authority, by the person who, by virtue of regulation 3, 4 or 5 above, has power to make arrangements under section 101(5) of the 1972 Act in accordance with this regulation.

(3B) Where arrangements provide for the discharge of functions by a joint committee and one or more, but not all, of the functions to be discharged by that joint committee, in relation to an authority, are the responsibility of the executive of the authority—

(a) There are amendments to section 102 which are not relevant to these Regulations.

- (a) appointment of the joint committee shall be made, under section 102(1)(b) of the 1972 Act; and
- (b) the number of members to be appointed, their term of office, and the area (if restricted) within which the committee is to exercise its authority, shall be fixed, under section 102(2) of the 1972 Act,
in relation to the authority, by the authority with the agreement of the executive of that authority.”;
- (c) in paragraph (5), after “subject of the arrangements”, there shall be inserted “and where the function in question is the responsibility of the executive of that authority”; and
- (d) paragraph (6) shall be omitted.

Members of joint committees

3. In regulation 12 of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (members of joint committees)—

- (a) in paragraph (1), for “paragraphs (2) to (4)”, there shall be substituted “paragraph (1A) and paragraphs (1D) to (4)”; and
- (b) after paragraph (1), there shall be inserted—
“(1A) Subject to paragraph (2), where—
(a) the joint committee is discharging a function in relation to five or more local authorities; or
(b) the function which the joint committee is discharging is a function which is required by statute to be discharged by a joint committee(a),

every person appointed to the joint committee in relation to an authority, in accordance with regulation 11, by the authority’s executive, a member of the executive or a committee of the executive shall be a member of that executive or of that authority, and the political balance requirements shall not apply to the appointment of such members.

(1B) A local authority may exercise the function under section 102(3) of the 1972 Act (appointment of persons who are not members of the authority) in relation to a joint committee where members of that committee are appointed by the local authority under section 102(1)(b) of the 1972 Act in accordance with paragraph (3) or (3B) of regulation 11.

(1C) Where arrangements provide for the discharge of functions by a joint committee and one or more, but not all, of the functions to be discharged by that joint committee, in relation to an authority, are the responsibility of the executive of the authority—

- (a) where only one member of the authority is a member of the joint committee, that person may be, but need not be, a member of the executive of the authority; and
- (b) where more than one member of the authority is a member of the joint committee, at least one member of the executive of the authority shall be a member of the joint committee.

(1D) Where—

- (a) arrangements provide for the discharge of functions by a joint committee;
- (b) the functions to be discharged by that joint committee, in relation to an authority, are all the responsibility of the executive of the authority; and
- (c) the joint committee previously discharged one or more functions in relation to the local authority which were not the responsibility of the executive of the authority,

paragraph (1E) shall apply.

(a) See, for example, section 73 of the Road Traffic Act 1991 (c.40) (section 73 was amended by sections 283 and 423 of, and Schedule 34 to, the Greater London Authority Act 1999 (c.29)).

- (1E) Where this paragraph applies—
- (a) if sub-paragraph (a) or (b) of paragraph (1A) applies, any member of the joint committee, who was appointed by the local authority and is not a member of the authority or of the executive of the authority, shall cease to be a member of the joint committee;
 - (b) if neither sub-paragraph (a) nor (b) of paragraph (1A) applies, any member of the joint committee, who was appointed by the local authority and is not a member of the executive of the authority, shall cease to be a member of the joint committee; and
 - (c) any other member of the joint committee, who was appointed by the local authority, shall be treated as if he had been appointed by the person who, by virtue of regulation 3, 4 or 5 above, has power to make arrangements under section 101(5) of the 1972 Act in accordance with regulation 11.”.

Signed on behalf of the Secretary of State for Transport,
Local Government and the Regions

Nick Raynsford
Minister of State,
Department for Transport, Local
Government and the Regions

11th December 2001

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 (“the 2000 Regulations”).

Regulation 2 of these Regulations amends regulation 11 of the 2000 Regulations. New paragraph (2A) of regulation 11 enables joint arrangements to provide for one joint committee to discharge a number of functions where the functions are the subject of different arrangements under section 101(5) of the Local Government Act 1972 and those arrangements have been made at the same time. The arrangements must have been made on behalf of the same authorities, even if the persons who made the different arrangements are different (who makes the arrangements depends on whether the functions are the responsibility of a local authority or of the authority’s executive).

New paragraph (2B) of regulation 11 enables joint arrangements to provide for the discharge of functions by a new joint committee or an existing joint committee. They may only provide for an existing joint committee to discharge the functions where every function which the joint committee will discharge (whether or not it is already discharging it), once the arrangements are made, will be on behalf of the same authorities (new paragraph (2C)).

New paragraphs (2D) to (2H) of regulation 11 provide for the situation where a function becomes the responsibility of an executive of a local authority after the authority made joint arrangements in relation to the function in accordance with the 2000 Regulations. The executive, a committee of the executive or a member of the executive must decide whether the function shall continue to be discharged in relation to the authority in accordance with the existing arrangements and must notify that decision to all the other parties to the arrangements. Until the decision is made and notified, the function shall be discharged in accordance with the existing arrangements. Where the decision is for the function to continue to be discharged in accordance with the existing arrangements, it shall be so discharged. Where the decision is for the function not to continue to be discharged in accordance with the existing arrangements it shall cease to be so discharged in relation to the authority.

New paragraphs (3) to (3B) of regulation 11 make provision regarding who, in relation to an authority, may appoint the joint committee and may fix the number of members to be appointed, their term of office, or the area (if restricted) within which the committee is to exercise its authority, under section 102(1)(b) and (2) of the Local Government Act 1972 (“the section 102 functions”). Where the joint committee is discharging functions in relation to a local authority, all of which are the responsibility of the authority, it is the authority which is to exercise the section 102 functions. Where the joint committee is discharging functions in relation to a local authority, some of which are the responsibility of the local authority and some of which are the responsibility of its executive, it is the authority with the agreement of the executive which is to exercise the section 102 functions. Where the joint committee is discharging functions in relation to a local authority, all of which are the responsibility of the executive of that authority, it is the executive which is to exercise the section 102 functions.

There are other minor amendments to regulation 11.

Regulation 3 of these Regulations amends regulation 12 of the 2000 Regulations. New paragraph (1A) of regulation 12 provides that where a joint committee is discharging a function in relation to five or more local authorities or a function which is required by statute to be discharged by a joint committee, and an executive, executive member or executive committee makes appointments to the joint committee, non-executive members of the authority as well as members of the executive may be appointed.

New paragraph (1B) of regulation 12 enables a local authority, which makes appointments to a joint committee in accordance with regulation 11, to appoint persons who are not members of the authority.

New paragraph (1C) of regulation 12 provides that where a local authority makes appointments to a joint committee with the agreement of the executive, if only one member of the authority is a member of the joint committee, that person need not be a member of the executive and if more than one member of the authority is a member of the joint committee, at least one member of the executive must be a member of the joint committee.

New paragraphs (1D) and (1E) of regulation 12 provide that where an executive takes over the role of appointment of members of a joint committee from a local authority, any members of the joint committee who, if the executive had made the appointments, the executive would not have been able to appoint, will cease to be members of the joint committee. Any other members appointed by the local authority will be treated as if they had been appointed by the executive.

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